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THE JUSTICES OF THE PEACE (APPEALS) ACT **Cap. 187.**

[1857.]

1. This Act may be cited as the **Justices of the Peace (Appeals) Act.** Short title.

2. In this Act—

Interpretation.

“appellant” means the party to any proceeding within the meaning of this Act who shall give notice of appeal from any judgment, decision, or report, or shall require to have a case stated for the opinion of the Court of Appeal thereon as herein provided;

“respondent” means the opposite party to any such proceeding; and

“judgment” means any conviction, judgment, order, or other affirmative adjudication, or any dismissal of, or refusal to hear or adjudicate on any complaint, information, or summons in a matter of summary jurisdiction.

As to Right and Time of Appeal and Advice thereof by Justices

3. Any person aggrieved or affected by any judgment of any Justice exercising summary jurisdiction, or by the decision or report of any other officer or body taking any proceeding, or acting under any enactment either now or hereafter to be in force in this Island whereby the right of appeal is or shall be allowed, shall be at liberty to appeal therefrom to the Circuit Court of the parish in which such judgment shall be pronounced, or to a Judge of the Supreme Court, as hereinafter respectively provided. Right of appeal.

Extent thereof.

4. The right of appeal shall extend to all enactments already or to be hereafter passed giving summary jurisdiction to Justices, or any other officer or body, unless where otherwise expressly provided.

Illiterate persons to be informed of their right of appeal.

5. The Justice, or other officer or body, whenever the person adjudicated against shall appear to be ignorant thereof, shall instruct him of his right of appeal, and the Clerk of the Courts shall, whenever required, furnish to any appellant the necessary notice and recognizance of appeal.

*As to Notice, Recognizance, Grounds of Appeal
Service, etc.*

Notice of appeal.

6. The appellant shall, either during the sitting of the Court or other tribunal at which such judgment, decision, or report as aforesaid is delivered give verbal notice of appeal or at any time within fourteen days after such judgment, decision, or report delivered give a written notice of his intention to appeal to the adjudicating Justice, or other officer or body as aforesaid, and to the respondent; and in either case shall, within such period of fourteen days, deliver to the Clerk of the Resident Magistrate's Court or other proper officer, and also to the respondents, the grounds in writing of his appeal:

Provided, that the time shall not commence to run in the case of an affirmative judgment until the copy of the conviction, order, or adjudication shall have been drawn up and be ready for delivery to the appellant.

Minute of verbal notice to be made by Clerk, etc.

7. Whenever a verbal notice of appeal shall be given the Clerk of the Resident Magistrate's Court or other proper officer, shall make a minute thereof; which shall operate as a notice of appeal to the Justices, or other body or officer before whom the proceeding shall be held, or take place, and also to the respondent, if present in person or by solicitor or agent; and if not so present, notice of

appeal shall be served in writing, as herein provided in other cases, on the respondent, within the before limited period of fourteen days after the judgment, decision or report shall be made.

8. Where the respondent has appeared by solicitor or agent, it shall be sufficient to serve such solicitor or agent with the notice and grounds of appeal herein required; and in every other case service thereof may be made personally on the respondent, or at his usual place of residence or business.

Service of
notice.

9. In case of the death of the respondent, or of his absence from the Island, the service of the notice and grounds of appeal respectively herein required shall be made upon his representative, in like manner, and within the like time, as it is herein directed to be made upon the respondent; and in case of the respondent or his representative being out of the jurisdiction of the Circuit Court of the parish, or in case of the respondent being absent, or dead, and there being no representative, copies of the notice and grounds of appeal respectively herein required shall be posted on the door of the Court House of the parish wherein the decision was made, and within the time herein limited for service as aforesaid :

Service of
notice
(contd.).

Provided, that the destruction, obliteration, or taking down of any such posted copy by any other person than the appellant or his agent, or any person acting with his privity or assent, shall not prejudice the appellant.

10. Service of notice of appeal on the Clerk of the Resident Magistrate's Court or of the Justices shall be sufficient notice to the Justices who have adjudicated.

Service of
notice of
appeal.

11. It shall not be necessary to state in any written notice of appeal that the appellant is aggrieved by the decision appealed against; and every notice of appeal shall be

Form of
notice of
appeal.

sufficiently signed, if signed by or on behalf of the appellant, either with his name or mark, or with the name of his solicitor, but if signed with his mark, such signature shall be attested by a subscribing witness.

Appellant need not serve notice of grounds of appeal in certain cases.

12. When notice of appeal is given, it shall not be necessary for the appellant to serve any grounds of appeal with respect to objects apparent on the face of the proceedings, or of the evidence; and the provisions of this Act shall only be obligatory when the grounds of appeal are not so apparent.

Appellant must enter into recognizance.

13. To entitle any person aggrieved or affected thereby to appeal from any judgment, decision, or report as aforesaid, the appellant shall, within fourteen days as hereinbefore provided for the giving of notice of appeal, enter into a recognizance, with one or more sufficient surety or sureties, in a sum sufficient in the case of a judgment inflicting a penalty or awarding a sum of money or costs to cover the penalty or sum awarded and costs, and in a further sum of six dollars for the costs of appeal, if any shall be adjudged; and in the case of a judgment of dismissal or refusal to adjudicate, in a sum sufficient to cover the costs of dismissal, if any, awarded, and a further sum of six dollars for the costs of appeal in case costs of appeal shall be adjudged; and such recognizance shall be conditioned for the due prosecution of the appeal according to the provisions of this Act, and that the appellant do perform and obey all and every the judgments, orders, and determinations of the Circuit Court or Judge to be made in the matter; and in case the judgment appealed from shall be affirmed, then that he do pay the amount of the penalty or sum of money adjudged, together with all costs, as well of the judgment appealed from, as of the Circuit Court, at such time as the said Circuit Court or Judge shall direct; and where the appellant shall have been adjudged to imprisonment in the first instance, the condition of the

recognizance in such case shall be that the appellant do surrender himself into custody forthwith, to undergo the term of imprisonment adjudged, and that he do pay all costs to be adjudged as aforesaid by the Circuit Court or Judge, in case of the judgment appealed from being affirmed.

14. Where an appellant may be under legal disability the recognizance of appeal of his surety or sureties shall be sufficient. Appellant under disability.

15. Any Justice for the parish in which the judgment, decision, or report intended to be appealed from shall be made, or for the parish in which the appellant or his surety resides, may take the recognizance of appeal hereby required. Who may take recognizance of appeal.

As to Admission of Sureties, and Justification by them, etc.

16. The appellant shall give to the respondent notice of the names of his intended sureties, and of the time and place of entering into recognizance; and it shall be lawful for any Justice taking any recognizance under this Act to determine any objection which may be raised by the respondent to the sufficiency of any surety or sureties that may be tendered, and to require, in case of the Justice being satisfied of the insufficiency of the surety or sureties named, that another surety or sureties shall be tendered; and in every case it shall be the duty of any Justice taking a recognizance under this Act to require every surety offering himself, or tendered by the appellant, to justify on oath, which oath such Justice is hereby authorized and required to administer, in the Form A in the Schedule; and every such oath shall be written upon the recognizance; and no surety shall be accepted who shall refuse or decline to justify as is hereby required; and if any surety shall wilfully and corruptly make a false oath touching or Sufficiency of sureties.

Schedule Form A.

upon any such justification, and shall thereof be convicted, such surety shall be deemed guilty of perjury, and shall be liable to and be punished with the penalties imposed on persons guilty of wilful and corrupt perjury.

Stay of Execution

Execution to be stayed on recognizance being entered into.

17. When notice of appeal has been duly given and served and the recognizance has been entered into as herein required, execution or further proceedings shall be stayed in the matter appealed against; and if the appellant be in custody, he shall be liberated until the judgment of the Circuit Court or Judge shall be given, or unless or until the appeal shall be withdrawn or not proceeded with by the appellant, on production of a certificate from the Clerk of the Appeal Court that the necessary notice and recognizance have been respectively given and entered into:

Provided, that in case of the affirmation of the judgment appealed from, any imprisonment which may have been undergone before liberation as last aforesaid shall be reckoned as part of the imprisonment under such judgment.

Delivery of Certified Copies of Evidence; Listing of Appeals; Summonses for Witnesses; Penalty for Non-Attendance

Clerks of Resident Magistrates' Courts to supply certified copies of evidence, etc.

18. The Clerk of every Resident Magistrate's Court, and in all other cases where the right of appeal is or shall be given the proper officer or party (the legal fees, if any, of such other proper officer or party being first paid or tendered) shall respectively, under the penalty of forty dollars for each neglect, to be recovered in a summary manner, supply to every party applying for the same a certified copy of the evidence taken, proceedings had, and decision made, in the matter of appeal.

Certified copies of evidence, for Court.

19. The Clerk of every Resident Magistrate's Court and in all other cases where the right of appeal is or shall be given the proper officer or party shall make up and certify the originals or copies of all original documents, also a

copy of the evidence taken, proceedings had, and decision made, in every matter of appeal, for the use of the Judge of the Appeal Court, not later than fourteen days after the delivery of such judgment, order, or report appealed from.

Any clerk, proper officer or party neglecting to comply with the provisions of this section shall be liable to a penalty of forty dollars for each neglect, to be recovered in a summary manner.

20. The Clerk of the Court shall, on the first day of the sitting of the Circuit Court at which any appeal is to be brought on, make out a list of all appeals for hearing at such Court, and shall on such day deliver to the Judge of the Court such list, together with the certified documents, or copies of documents, and copies of evidence, proceedings had, and decisions made, in every such matter of appeal, and grounds of appeal.

Clerk of Court to make out list of appeals.

21. Either party to the proceedings appealed from may obtain from the Clerk of the Court, who shall have authority to sign the same, summonses for witnesses, with or without a clause requiring the production of books and documents in their respective possession or control; and in any such summonses any number of names may be inserted; and every person on whom any such summons, or any copy thereof, although containing his name only, shall be served, and to whom at the same time payment or a tender of payment of his expenses shall have been made on the scale established with regard to witnesses subpoenaed to attend any Circuit Court and who shall refuse or neglect without sufficient cause to appear, or if appearing, to give evidence, or to produce any books or documents required by such summons to be produced, and also every person present in Court who shall be required to give evidence and who shall refuse to be sworn or to give evidence, or shall

Summonses to witnesses.

wilfully prevaricate, shall be liable respectively to be committed to jail by the Appeal Court or Judge for any period not exceeding seven days.

The Appeal Court, Time of Hearing and when Appeal Not to be Heard

Circuit Court to be Appeal Court.

22. The Circuit Court for every parish in this Island shall be the Appeal Court for matters arising in every such parish.

How and when appeals shall be heard.

23. Every appeal shall be heard at the then next succeeding Circuit Court of the parish wherein the judgment appealed from was delivered, if such Court shall meet within one month after the perfection of such judgment; but if a longer interval shall occur between the perfection of the judgment and the holding of the Circuit Court, then it shall be lawful for either the appellant or respondent to require, and for the Clerk of the Resident Magistrate's Court to transmit, a transcript of the information, summons, evidence, conviction, order, or judgment appealed from, and to submit the same for adjudication before any Judge of the Supreme Court in Chambers, who shall thereupon, if he conceive the proceedings to be questionable, issue his summons to the opposite party to attend to show cause before him or any other Judge of the Supreme Court why the judgment appealed from should not be quashed; but if such judgment should, on such application by the appellant, appear to be valid and good, then such Judge shall endorse his confirmation thereof on the proceedings and return the same into the office of the Clerk of the Resident Magistrate's Court where the case was adjudicated; and upon the appearance or default of appearance on any such summons to be issued as aforesaid by the Judge, he shall examine into the matter of such appeal, and determine the same in his judgment finally.

24. No appeal shall be heard unless the appellant shall have given and served the notice of appeal and the grounds of appeal as herein directed, and entered into the recognizance respectively herein required within the period herein in that behalf limited.

No appeal to be heard unless notice given, etc.

25. If the appellant shall fail to give and serve the notice and grounds of appeal, and enter into the recognizance respectively herein required, his right to appeal shall cease and determine, and the party in whose favour the judgment, decision, or report shall have been made shall thereupon be at liberty forthwith to take all lawful means for enforcing the same; and any Justice, or other proper officer or body of the parish wherein such judgment, decision, or report was made, may issue all necessary process for enforcing the same, according to the forms prescribed by the enactment under which the proceedings were originally commenced, or as may be provided by any other enactment now or hereafter to be passed for enforcing the same.

If notice and grounds of appeal not served, and recognizance not entered into, right of appeal to cease.

Practice and course of Procedure, Powers of Court, Costs

26. The provisions of this Act shall be construed liberally in favour of the right of appeal; and in case any of the formalities prescribed by this Act shall have been inadvertently, or from ignorance or necessity, omitted to be observed, the Appellate Judge, if the justice of the case shall so require, may, upon terms admit the appellant to impeach the judgment, order, conviction, or proceeding appealed from.

Construction of Act.

27. When notice of appeal is given, and the respondent is thereby induced to incur any expense, and the appellant shall not afterwards perfect or prosecute his appeal, the Court shall have power to award costs against such appellant.

Costs where appeal abandoned.

Reference
back to
Justices.

28. The Appellate Judge shall have power to refer the case back to the Justices for further investigation, or further evidence on any point on which he shall deem the evidence defective; and the Justice or Justices who tried the case, or any other two Justices, shall have power, on the application of the appellant or respondent, to summon witnesses, and to take all evidence which may be tendered, and which may bear on the case generally, or on the specific points referred to his or their investigation.

Rules of
practice in
Appeal
Court.

29. The following general rules of practice shall prevail in the Appeal Courts—

First. None but barristers or solicitors, or the appellants and respondents in person, shall be entitled to address the Court.

Second. The appellant shall begin by proving that he has served the notice and grounds of appeal, and entered into the recognizance respectively as herein required.

Third. If matters of fact are in issue, the party asserting the affirmative of the issue of fact shall begin and produce his witnesses or evidence, after which the other shall call witnesses or produce evidence and reply. The evidence or witnesses on both sides shall be the same as were examined and produced at the proceeding, the judgment, decision or report, wherein is appealed from.

Fourth. If no matters of fact are in issue, but a question of law only is raised by the appeal, the appellant will state his objections, after proving his notice and grounds of appeal and the recognizance respectively herein required, and the respondent will be heard in reply.

Proof of
service of
notice, etc.

30. Proof of service of the notice and grounds of appeal respectively herein required may be made by affidavit, to

be sworn before the Judge of the Appeal Court, or any Justice, and any person wilfully making any false statement in any such affidavit shall be liable to be prosecuted, and, if convicted, shall be punished with the like penalties as are imposed in the case of perjury:

Provided that it shall be lawful for the Judge of the Appeal Court, if not satisfied with any affidavit of service and grounds of appeal, to require the service of the notice aforesaid to be proved, *viva voce*, on oath:

Provided also, that any written admission of service of notice by the Justices entitled thereto shall be taken to be sufficient service under the provisions of this Act, as far as such Justices are concerned.

31. The Court, or Judge, on the hearing of any matter within its jurisdiction, is hereby empowered to amend any defect in form in any part of any proceedings, or the record thereof, and also, if any variance shall appear between any matter in writing or in print produced in evidence and the recital or setting forth thereof in any such proceeding, or any part thereof, or the record thereof respectively, to cause the same to be amended as occasion shall require; and after any amendment as herein provided, the case shall proceed in the same manner, and all and every the proceedings wherein the decision appealed from shall be made shall be attended with the like effects in all respects with regard to the liabilities of parties thereto, or the liability of witnesses to be indicted for perjury or otherwise, as if no amendment had been made:

Defects of form, etc., may be amended.

Provided, the Court may direct that any such amendment shall be made only upon such terms as to the Court shall seem meet and just.

32. Every information, summons, order, conviction warrant of distress, or commitment, or other proceeding shall be deemed valid and sufficient in which the offence

No proceeding to be set aside for want of form.

or claim shall be set forth in the words of the enactment creating the offence or giving jurisdiction, or which shall follow the form given by any enactment relating to the offence or claim, or the general form in the Schedule given for any such proceeding under Parts I and III of the Justices of the Peace Jurisdiction Act or under the general provisions of that Act or any other enactment passed, or to be passed for the like purpose; and no proceeding shall be set aside for form merely where it appears that the party accused or called on to answer in the matter was duly summoned, and had notice of the offence charged, or claim made against him.

Where
recognizance
informal,
new recog-
nizance may
be entered
into.

33. Where any recognizance shall have been entered into within the time herein required, but shall appear to the Appeal Court or Judge to have been informally entered into, or drawn up, or signed, or stamped, or to be otherwise defective or invalid, it shall be lawful for such Court or Judge, if they shall think fit, to permit a new and sufficient recognizance to be entered into in the place of such informal, defective, or invalid recognizance; but the trial of such appeal shall not be delayed unless the Appellate Judge shall, on application for that purpose, think fit to postpone the same to the next Court, and no longer; and he shall and is hereby empowered to impose such terms as to payment of costs to the respondent, or otherwise, as to such Judge shall appear just and reasonable; and such substituted recognizance shall be as valid and effectual, to all intents and purposes, as if the same had been duly entered into at any earlier time as required by this or any enactment now or hereafter to be in force.

Evidence at
hearing of
appeal.

34. The evidence taken and certified by the Clerk of the Resident Magistrate's Court at the hearing shall be read and received by the Appellate Judge as the evidence in the case, unless the appellant and respondent, or either of them, shall within fourteen days after the perfection of

the judgment, signify to the Clerk of the Resident Magistrate's Court his dissatisfaction therewith; in which case they or he shall be at liberty to re-examine *viva voce* before the Appellate Judge, and shall come prepared with the witnesses examined by the adjudicating Justices, any or either of them that he may require; and no other than such as shall have been examined or tendered and refused by the Justices aforesaid shall be called as witnesses on the hearing of the appeal; and no other documentary evidence than such as shall have been admitted or tendered and refused in evidence before such Justices shall be admitted on the hearing of the appeal.

35. The Judge of the Appeal Court shall have power to administer oaths, or to take solemn affirmation in any case wherein an affirmation may by law be taken instead of an oath; and any person who in any examination upon oath or solemn affirmation shall wilfully and corruptly give false evidence shall be indicted for perjury, and shall, on conviction, be punished with all the penalties attaching to perjury; and any party or witness who shall appear to give false evidence wilfully and corruptly may be committed and detained for examination on such charge of perjury by any Justice of the parish wherein the charge is made, and shall be thereupon dealt with according to law, as in other cases of perjury.

Appellate
Court may
administer
an oath.

36. Notwithstanding anything in any law regulating appeals from a Court of Petty Sessions the Appeal Court or Judge shall, if such Court or Judge thinks that a different sentence should have been passed, quash the sentence passed by the Justice or Justices at the trial and pass a less severe sentence in substitution therefor as such Court or Judge thinks ought to have been passed. Any substituted sentence so passed shall be enforceable in the same manner as the sentence for which it has been substituted would have been enforced.

Power to
reduce
sentence
passed in
Petty
Sessions.

Power to
dismiss
appeal.

37. The Appeal Court or Judge may, notwithstanding that the Court or Judge is of the opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if such Court or Judge considers that no substantial miscarriage of justice has actually occurred.

Costs.

38. The Judge of the Appeal Court shall have power to award costs, not exceeding the sum of six dollars, in any case either heard before him, or in which, the notice of appeal and recognizance having been given as herein required, the appeal shall be withdrawn or shall not be prosecuted or proceeded with.

Power to
adjourn.

39. The Appeal Court or Judge shall in its discretion respite and adjourn the appeal as often as the justice of the case shall require.

*Proceedings if Decision Affirmed or Reversed; Simple
Dismissal of Appeal*

Judgment
on appeal.

40. If the decision appealed from shall be affirmed by such Court or Judge, the Judge shall endorse thereon the words "judgment affirmed", with his signature; or if the appeal shall be withdrawn, or not proceeded with or prosecuted the Judge shall endorse the words "appeal withdrawn", or "not proceeded with", or "not prosecuted"; and in any of such cases it shall be lawful for the Judge also to endorse the amount of costs (if any are given) by the Appeal Court; and thereupon any Justice of the parish wherein the proceeding, in which the appeal was made, took place shall immediately, on application by the party entitled, add the costs so given by the Court to any penalty or sum of money and costs, if any, ordered to be paid on the proceedings wherein such appeal shall be made, and issue all necessary warrants for the recovery of the whole by distress and sale, or commitment, or otherwise, accord-

ing to the forms which may be given by the particular enactment under which the original proceedings were taken, or by any general enactment now passed, or hereafter to be passed, for the purpose of enforcing summary orders or convictions.

41. If the decision appealed from shall be affirmed, and the appellant shall make default in satisfying the judgment appealed from forthwith, then it shall be lawful for any Justice of the parish wherein the decision was made to issue process in the form marked B in the Schedule on the recognizance entered into by the sureties or surety of the appellant, for the recovery of the penalty or sum of money, and the costs on the original proceedings, and costs on the appeal, if any, which the appellant shall be liable to pay, as also thirty cents for costs on such process against every or any surety in such recognizance.

How judgments to be enforced.

Schedule Form B.

42. Payment by the appellant, or any surety, of the whole amount which the appellant is liable to pay, and of the costs aforesaid for issuing process on the recognizance aforesaid, shall be full satisfaction and discharge of all liability of the appellant and his sureties or surety on the original proceedings and the recognizance entered into as aforesaid.

Payment of amount by appellant declared satisfaction.

43. The imprisonment of the sureties or surety of any appellant under process on the recognizance as aforesaid shall not extend beyond the time to which the appellant shall be liable to be imprisoned by the enactment or enactments under which he shall be convicted or ordered to pay the amount of money and costs or be otherwise committed.

Limitation of imprisonment of surety.

44. If the decision appealed from shall be reversed by such Judge, it shall be lawful for the said Judge to endorse thereon the words "Judgment reversed", with his signature, and also the amount of costs, if any are given; and it

Proceedings upon reversal of judgment.

shall be lawful for the Judge, or any Justice of the parish wherein the decision is made, to issue a warrant of distress for the amount of such costs against the goods and chattels of the respondent; and if no distress or insufficient distress shall be found, then to commit the respondent to the nearest gaol, without hard labour for any time not exceeding three calendar months unless the costs remaining unpaid shall be sooner paid; and any such warrant may be issued in the form in the Schedule provided for any such proceeding under Parts I and III of the Justices of the Peace Jurisdiction Act, or any enactment passed or to be passed, for enforcing summary proceedings.

Dismissal of
appeal.

45. If the appellant, from any cause, as from not having served or proved the service of the notice of his appeal or grounds of appeal or from having given a defective recognizance or otherwise howsoever shall not be in a condition to carry on his appeal, and the decision appealed from shall be bad on its face, it shall be lawful for the Appeal Court simply to dismiss such appeal without affirming the decision :

Provided, that the Court or Judge may make the like amendments in such case in matters of form only as are hereinbefore authorized in other cases, and may, after any such amendment, give such judgment in the matter as may appear to be proper to the Court.

Punishment for Contempt

Punishment
for con-
tempt.

46. If any person shall wilfully insult the Judge, or any officer of the Appeal Court, during its sitting or attendance in Court, or in going to or returning from the Court, or shall wilfully interrupt the proceedings of the Court, or otherwise misbehave in Court, or in the neighbourhood thereof, it shall be lawful for any police officer or constable with or without the assistance of any other person, or for

any constable sworn specially for the purpose by the order of the Judge to take such offender into custody, and detain him until the rising of the Court; and the Judge shall be empowered if he shall think fit, by a warrant under his hand, to commit any such offender to prison for any time not exceeding seven days.

Where Appeal will not lie

47. No party shall be entitled to appeal from a judgment, order, order of dismissal, decision, report or determination admitted or assented unto by him, or his duly authorized solicitor or agent, or from any conviction entered up on a plea of guilty.

No appeal where party has assented to judgment.

48. No party shall be entitled to appeal from any judgment, order, order of dismissal, determination, conviction, decision or report, which has gone by default for want of appearance or otherwise, unless such party shall make oath in writing, setting forth his grounds of appeal, and the reasons why he did not appear at the hearing or trial, and that such appeal is not made for delay, but to obtain substantial justice in the matter; which said affidavit shall be filed, along with a written notice of appeal and a recognizance within the like period of fourteen days as is herein limited in other cases after such judgment, order, determination, conviction, decision or report as aforesaid.

Nor where judgment has gone by default.

Proceedings for Transmission of Case for obtaining Opinion of the Court of Appeal and subsequent Proceedings

49. It shall be lawful for the Judge of the Circuit Court or Supreme Court or for the Justice or Justices or other body or officer before whom any proceedings may be brought from which an appeal may by any law be given, to transmit a case for the opinion of the Court of Appeal in

Justice may state case for opinion of Court of Appeal.

matter of law, or on the construction of any Statute; and thereupon it shall be lawful for the said Court of Appeal, after notice to the parties concerned, and after hearing the said parties if they shall think fit to appear, to certify its opinion thereon under the seal of the said Court to the Appeal Court, or to the Justice or Justices, or other officer or body; and judgment shall thereupon be pronounced in accordance with such certificate by the Appeal Court, or the Justice or Justices or other officer or body, and carried into execution as a judgment of the said Appeal Court, or of the Justice or Justices or other officer or body as aforesaid.

Either party may apply for case for opinion of Court of Appeal.

50. After the hearing and determination, or order of dismissal, or refusal to adjudicate, by a Justice or Justices of any information or complaint which he or they have power to determine in a summary way by any enactment now in force or hereafter to be made, either party to the proceedings before the said Justice or Justices may, if dissatisfied with the said judgment 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 judgment or order, for the opinion thereon of the Court of Appeal, and the appellant shall, within fourteen days after receiving such case, transmit the same to the Registrar of the Court of Appeal first giving notice in writing of such appeal, with a copy of the case so stated and signed, to the respondent.

Appellant before case stated must enter into recognizance, etc.

51. 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 any Justice with sufficient surety or sureties, and in such sum as to the Justice shall seem meet and subject to all the provisions herein contained in respect to any other recognizance required to be taken under this Act.

52. 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 to him a certificate of such refusal:

Justices may refuse to state case.

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 the Director of Public Prosecutions.

Exception.

53. Where the Justice or Justices shall refuse to state a case as aforesaid, it shall be lawful for the appellant to apply to the Supreme Court 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 rule 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 hereinbefore provided.

Remedy if refusal.

54. The Court of Appeal shall hear and determine the question or questions of law arising on any case transmitted under this Act at the instance of the Justices or other body or officer before whom the proceedings shall have been held or of the Judge of the Appeal Court or of any party respectively as aforesaid, and shall thereupon reverse, affirm, or amend the judgment, report or decision in respect of which the case has been stated, or remit the matter to the Judge, Justice or Justices, or other body or officer, with the opinion of the Court thereon, or make such other order in relation to the matter, and 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:

Proceedings in Court of Appeal.

Provided, that no Justice or Justices or other body or officer 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 judgment, report, or decision.

Case submitted may be sent back for amendment.

55. The Court of Appeal shall have power, if they think fit, to cause any case transmitted to them under this Act 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.

Decision of Court of Appeal may be enforced by the original jurisdiction.

56. After the decision of the Court of Appeal in relation to any case stated for their opinion under this Act, the Judge, Justice or Justices, or other body or officer in relation to whose judgment, report, or decision or at whose instance the case has been stated, or any other Justice or Justices exercising the same jurisdiction, shall have the same authority to enforce any conviction or order which may have been affirmed, amended, or made by such Court of Appeal, as the Judge, Justice or Justices, or other body or officer who originally decided the case or before whom the same was originally brought would have had to enforce his or their judgment, report, or decision, if the same had been appealed against; and no action or proceeding whatsoever shall be commenced or had against any Justice or Justices, or body or officer, for enforcing such judgment, report, or decision, by reason of any defect in the same respectively.

No writ of *certiorari* necessary to remove judgment into Court of Appeal.

57. No writ of *certiorari* or other writ shall be required for the removal of any judgment, report, or decision in relation to which any case is stated under this Act or otherwise for obtaining the judgment or determination of the Court of Appeal on any such case under this Act.

58. In all cases where the conditions, or any of them in the last-mentioned recognizance shall not have been complied with, the like proceedings shall be taken with respect to the enforcement of the same as hereinbefore provided with respect to forfeited recognizances of appeal for the prosecution of appeals to the Appeal Court.

Proceedings on forfeited recognizance.

59. Any person who shall appeal by requiring a case to be stated at his instance under the provisions of this Act against any judgment, report, or decision of a Justice or Justices, or other body or officer, from which he is by law entitled to appeal to the Circuit Court of the parish, shall be taken to have abandoned such last-mentioned right of appeal finally and conclusively, and to all intents and purposes.

Right of appeal to Circuit Court considered abandoned when case required to be stated.

Appeal from Dismissal

60. On any appeal from a dismissal or refusal to adjudicate, the Appellate Judge shall proceed to hear and determine the matter of information or complaint; and for that purpose shall have, use, and exercise all the powers and authorities given to the Justice or Justices before whom the matter was originally brought for adjudication; and shall thereupon issue such process and execution as may be necessary for the purpose of enforcing such judgment as aforesaid.

Appeal from dismissal; powers of judge.

Recovery of Penalties

61. Every penalty imposed by this Act, the mode of recovering which is not prescribed, may be recovered in a summary manner in the parish wherein the offence shall be charged to have been committed, and may be enforced by any Justice of such parish by the like proceedings as are provided by Parts I and III of the Justices of the Peace Jurisdiction Act, or as shall be provided by any enactment passed, or to be passed, for enforcing summary proceed-

How penalties to be recovered.

ings; and all penalties imposed by this Act, the appropriation whereof is not otherwise directed, shall be paid to the Accountant-General, and carried to the credit of the Consolidated Fund.

Rules of Court

Rules
of court.

62. Rules of court may be made regulating the practice and proceedings in reference to all cases of appeal.

Miscellaneous Provisions

Writs of
distringas
and *capias*
under
section 40.

63. The *distringas* and *capias* under section 40 shall run into and may be executed in any parish wherein any surety in any recognizance as aforesaid shall be found:

Provided, that if he shall be in any other parish than that as of which he is described, or from which the process shall issue, the same shall, on demand by the constable charged with its execution, be endorsed by any Justice of the parish wherein he shall be found.

Power of
amend-
ment.

64. The Appellate Judge or Court shall have, independently of the powers hereinbefore conferred, the same powers in all respects to cause any judgment, decision, or report appealed from, and all proceedings connected therewith, to be amended, in like manner as the Circuit Courts are or may be by any law now or hereafter to be in force empowered to do.

No judg-
ment to be
reversed
unless the
point rais-
ed at the
trial or in-
justice
caused.

65. No judgment, order, or conviction of Justices in any criminal proceeding shall be reversed or quashed upon appeal, or in any other proceeding for any error or mistake in the form or substance of such judgment, order, or conviction, unless the point was raised at the original trial or inquiry, or the Appeal Court or Judge is of opinion that such error or mistake has or may have caused, or may cause injustice to the party against whom such judgment, order, or conviction has been given or made.

SCHEDULE

FORM A

(Section 16)

Form of Justification

I, *E.F.*, of the parish of _____, one of the sureties in the (above, within or annexed) recognizance, do solemnly and sincerely swear that I believe I am worth, over and above all my just debts and liabilities, the sum of _____, in which I propose to be a surety for *A.B.*, of, etc., the appellant above (or within, etc.), named.

E.F.

Sworn before me, this _____ day of _____, 19 _____.

C.D.,
Justice of the Peace
for _____.

FORM B

(Section 41)

Form of Distringas and Capias

Elizabeth II by the Grace of God of Jamaica and of Her other Realms and Territories, Queen, Head of the Commonwealth. G. N.
840/62.

To any constable of the parish of _____, Greetings.

You are hereby required and commanded to levy the sum of _____ for the penalty, and _____ for costs upon the goods and chattels of _____, in the parish of _____, and immediately pay over the same money to _____, of etc., (*here name and describe the respondent*) and if you can find no sufficient goods or chattels to satisfy the same, then that you take the body of the said _____, and lodge him in the (*name of prison*) to be there detained until discharged in due course of law, or unless the said sum be sooner paid; and hereof you are to make return at the first day of the Circuit Court to be held in and for the said parish of _____, on the day of _____, now next ensuing.

Given under my hand and seal, this _____ day of _____, 19 _____.

(*L.S.*)