

No. XIX.

An Act to repeal so much of an Act intituled BLASPHEMOUS AND
SEDITIONOUS LIBELS.
“ *An Act for preventing the mischiefs arising from*
“ *the printing and publishing Newspapers and*
“ *Papers of a like nature by persons not known*
“ *and for regulating the printing and publication*
“ *of such Papers in other respects and also for*
“ *restraining the abuses arising from the publica-*
“ *tion of blasphemous and seditious Libels*” as
relates to the sentence of banishment on a
second conviction and further to amend the
same. [3rd January 1842.]

WHICHREAS by an Act of the Governor and Council of New South Preamble.
Wales passed in the eighth year of the reign of His late Majesty
King George the Fourth intituled “ *An Act for preventing the mischiefs* 8 Geo. IV. No. 2.
“ *arising from the printing and publishing Newspapers and Papers of a*
“ *like nature by persons not known and for regulating the printing and*
“ *publication of such Papers in other respects and also for restraining*
“ *the abuses arising from the publication of blasphemous and seditious*
“ *Libels*” it was amongst other things enacted that if any person should
be legally convicted of having after the passing of the said recited Act
composed printed or published any blasphemous or seditious Libel
tending to bring into hatred or contempt the Government of the
Colony of New South Wales as by law established or to excite His
Majesty’s subjects to attempt the alteration of any matter in Church
or State as by law established otherwise than by lawful means and
should

Blasphemous and Seditious Libels.

So much of 8 Geo. IV. No. 2 as relates to banishment on a second conviction repealed.

No actions for penalties to be commenced except in name of the Attorney or Solicitor General at Sydney or of the Crown Prosecutor at Port Phillip.

Persons sued before the passing of this Act for penalties incurred under the recited Act may apply to the Court or a Judge to stay proceedings upon certain conditions.

Mode of proceeding for the recovery of penalties before Justices of the Peace.

should after having been so convicted offend a second time and should be thereof legally convicted before the Supreme Court such person might on such second conviction be adjudged at the discretion of the Court either to suffer such punishment as might then by law be inflicted in cases of high misdemeanors or to be banished from the said Colony and its Dependencies for such term of years as the said Court should order and whereas it is expedient to repeal so much of the said recited Act as relates to the sentence of banishment on a second conviction Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That so much and such parts of the said recited Act as relate to banishment on a second conviction shall be and the same are hereby repealed.

2. And be it enacted That from and after the passing of this Act it shall not be lawful for any person or persons whomsoever to commence prosecute enter or file or cause or procure to be commenced prosecuted entered or filed in manner hereinafter provided any action bill plaint or information in the Supreme Court at Sydney in the Colony aforesaid or in any Circuit Court of the said Colony or before any Justice or Justices of the Peace acting in and for any part of the said Colony not being within the District of Port Phillip against any person or persons whomsoever for the recovery of any fine penalty or forfeiture incurred or which may be incurred by virtue of the said recited Act unless the same shall be commenced prosecuted entered or filed in the name of Her Majesty's Attorney or Solicitor General of the said Colony for the time being nor in the Supreme Court at Melbourne in the District of Port Phillip in the Colony aforesaid nor before any Justice or Justices of the Peace acting in and for the said district unless the same be commenced prosecuted entered or filed in the name of the Crown Prosecutor for the time being in and for the said district and if any such action bill plaint or information shall be commenced prosecuted entered or filed in the name of any other person or persons for any thing already or which may hereafter be done or omitted to be done under the said recited Act the same and every proceeding thereupon had are hereby declared to be and the same shall be null and void to all intents and purposes whatsoever.

3. And be it enacted That from and after the passing of this Act it shall be lawful for any person or persons against whom any original writ suit action bill plaint or information shall have been sued out commenced or prosecuted on or before the day of the passing of this Act for the recovery of any pecuniary penalty or penalties incurred under the said recited Act to apply to the Court in which such original writ suit action bill plaint or information shall have been sued out commenced or prosecuted if such Court shall be sitting or if not then to any Judge of the said Supreme Court at Sydney or to the Resident Judge of the said Supreme Court at Melbourne aforesaid as the case may be for an order directing that such writ suit action bill plaint or information shall be discontinued upon payment of the costs incurred in respect thereof up to the time of such application being made such costs to be taxed according to the practice of such Court and every such Court or Judge is hereby authorized and required upon such application and upon proof that sufficient notice of such application has been given to the plaintiff or plaintiffs or to his or their attorney to make such order as aforesaid and upon the making such order and payment or tender of such costs as aforesaid such writ suit action bill plaint or information shall be forthwith discontinued.

4. And be it enacted That it shall be lawful for any Justice of the Peace before whom any offence against the provisions of the said recited Act the penalty for which shall not exceed twenty pounds shall be

Blasphemous and Seditious Libels.

be tried and such Justice is hereby required upon any information exhibited or complaint made by any person duly authorized in that behalf to summon the party accused and also the witnesses on either side to be and appear before the said Justice or before any other Justice of the Peace at a time and place to be in such summons appointed for that purpose and whether the party accused shall appear or not it shall be lawful for the said Justice or any other Justice present at the time and place appointed for such appearance to proceed to examine into the fact and upon due proof made thereof to the satisfaction of any such Justice either by confession of the party accused or by the oath of one or more credible witness or witnesses to convict such offender and to give judgment for the penalty and costs to be assessed by any such Justice and to issue his warrant for levying such penalty and costs on the goods and chattels of the offender and to cause sale to be made thereof in case the same shall not be redeemed within the five days then next ensuing rendering to the offender the overplus (if any) after deducting the reasonable costs and charges attending such distress and sale and where no sufficient distress can be found to answer such penalty and costs such Justice or any other Justice of the district or place in which such conviction shall take place shall commit such offender to the common gaol or house of correction there to remain for any time not exceeding three calendar months nor less than one calendar month unless such penalty costs and charges shall be sooner paid and satisfied and if any person shall find himself aggrieved by the judgment of any such Justice it shall be lawful for such person to appeal against the same to the General or Quarter Sessions of the Peace for the district or place where the offence shall have been committed which shall be held next after the expiration of ten days from the day on which such conviction shall have been made of which appeal notice in writing shall be given to the prosecutor or informer seven clear days previous to the first day of such Sessions and it shall be lawful for the Justices at such Sessions to examine witnesses on oath and finally to hear and determine such appeal and in case the judgment appealed against shall be confirmed it shall be lawful for the Justices at such Sessions to award and order the person convicted to pay in addition to the original judgment such costs occasioned by such appeal as to them shall seem meet Provided always that no person convicted before any such Justice shall be entitled or permitted to appeal against such conviction in manner aforesaid unless he shall within three days after such conviction made enter into a recognizance with two sufficient sureties before such Justice to enter and prosecute such appeal and to pay the amount of the penalty and costs in which he shall have been convicted and also such further costs as shall be awarded in case such conviction shall be confirmed on such appeal Provided also that no such proceedings so to be taken as aforesaid shall be quashed or vacated for want of form or shall be removed by *certiorari* or by any other writ or process whatsoever into any superior or other Court or jurisdiction in any part of the said Colony any law statute or usage to the contrary notwithstanding Provided further that it shall be lawful for any Justice of the Peace before whom any person shall be convicted of any offence against the said recited Act to mitigate as he shall see fit any pecuniary penalty by the said Act imposed in cases where such Justice shall see cause so to do provided that all reasonable costs and charges incurred as well in discovering as in prosecuting for such offence shall be always allowed over and above the sum to which such penalty shall be mitigated and that such mitigation do not reduce the penalty to less than one-fourth of the penalty incurred exclusive of such costs and charges any thing herein contained to the contrary notwithstanding.

Appeal to Sessions.

Notice of appeal.

Sessions may give costs.

Persons convicted to give security on appeal.

No certiorari.

Justices may mitigate penalties.

Melbourne Auction Company.

5. And be it enacted That the Justice before whom any person shall be convicted of any offence under the said recited Act shall cause the conviction to be made out in the manner and form following or in any other form of words to the like effect *mutatis mutandis* that is to say—

Form of conviction.

County of

to wit.

forty-

of

C. D. Esq. one of Her Majesty's Justices of the Peace for the Colony of New South Wales in pursuance of an Act passed in the fifth year of the reign of Her present Majesty Queen Victoria intituled (*insert title of Act*)

for that the said A. B. (*here state offence*)

contrary to the form of the Act in that case made and provided for which offence I do adjudge that the said A. B. hath forfeited the sum of

and (if the Justice mitigate the penalty) which sum of

I do hereby mitigate to the sum of

over and above the sum of

which I do allow to E. F. for his reasonable costs and expenses in prosecuting this conviction.

Given under my hand and seal &c.

Name of proprietor or editor not necessary to appear in the imprint of newspapers nor editor's name in affidavit.

6. And be it enacted That from and after the passing of this Act it shall not be necessary that the name of any proprietor or editor should appear in the imprint of any newspaper or that the name of such editor should be inserted in any affidavit or affirmation required to be made under the said recited Act and that no penalty shall be incurred by any such proprietor or editor or by any other person in respect of the omission of such proprietor's or editor's name in the imprint of any newspaper or of such editor's name in any affidavit or affirmation required to be made under the said recited Act any thing therein contained to the contrary notwithstanding.