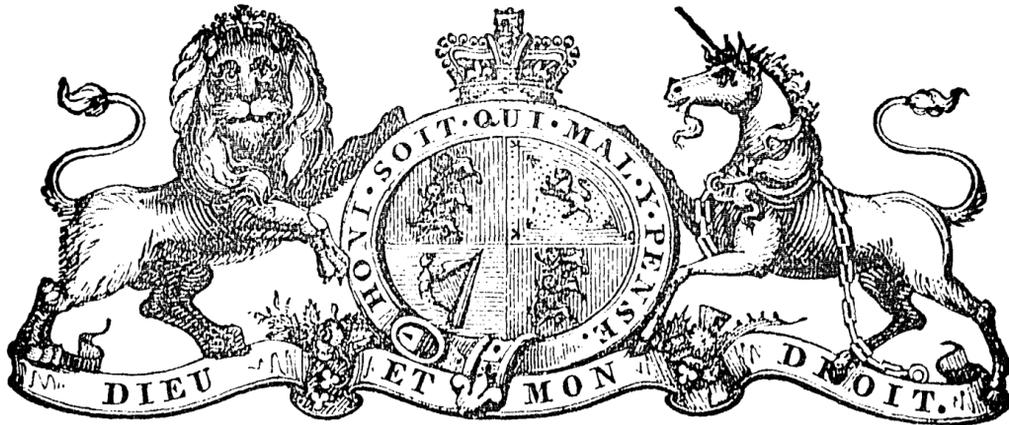


VICTORIA.



ANNO QUADRAGESIMO OCTAVO

VICTORIÆ REGINÆ.

No. DCCCX.

An Act to make provision for the amendment of Errors and Informalities in proceedings before Justices of the Peace.

[12th December 1884.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. This Act may for all purposes be cited as "*The Amendment of Informalities Act 1884.*" Short title.

2. This Act shall apply to all convictions orders adjudications determinations judgments warrants and proceedings made by or had before any justice or justices wheresoever acting within his or their jurisdiction. Application of Act.

3. The description of any offence in the words of the Act or any order bye-law regulation or other document creating the offence or in similar words shall be sufficient in law. Description of offence.
42 & 43 Vict. c. 49
s. 39 sub-s. 1.

4. Any exception exemption proviso excuse or qualification, whether it does or does not accompany in the same section the description of the offence in the Act order bye-law regulation or other document creating the offence may be proved by the defendant, but need not be specified or negatived in the information or complaint, and if so specified or negatived no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant. Unnecessary to specify negative prove exception exemption proviso excuse or qualification.
Ib. sub-s. 2.

5. The

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Act No. 571 to apply to summary adjudications and determinations of justices.

5. The first second and fourth sections of the Act No. DLXXI. shall apply to any summary adjudication or determination of any justice in the same manner as the said sections apply to any conviction or order of any justice, and the said fourth section shall apply to any warrant issued by a clerk of petty sessions under the Act No. CCLXXXIV. or any amendment thereof in the same manner as the said section applies to a warrant issued by any justice.

On proceedings for prohibition or motions to quash convictions orders and judgments not to be void in certain cases.

6. Where any conviction order adjudication or determination is brought before the Supreme Court upon a return to a writ of *certiorari* or proceedings for prohibition, or under the Act No. DLXXI. or any amendment thereof or under the provisions of this Act, such conviction order adjudication or determination shall not be deemed void by reason of any defect in form or substance if it be shown to the satisfaction of such court that sufficient grounds were in proof before the justice making such conviction order adjudication or determination to have authorized the drawing up thereof free from such defect, and in such case the court may upon such terms as to payment of costs as it thinks fit amend the said conviction order adjudication or determination; and where any warrant of a justice or of a clerk of petty sessions is brought before such court under the said Act or under this Act, the conviction order adjudication or determination upon which such warrant was issued may be brought before the said court and may if necessary be amended in like manner and on the same terms as hereinbefore provided.

On appeal to General Sessions convictions orders and judgments not to be void in certain cases.

7. Where any conviction order or judgment is brought before any Court of General Sessions upon appeal, and any objection is made thereto for any defect in form or substance, the said court before quashing any such conviction for any such defect shall proceed to hear the evidence in support of such conviction, and if it is satisfied that sufficient grounds are proved to justify the drawing up of such conviction order or judgment free from such defect the court may upon such terms as to payment of costs as it thinks fit amend such conviction order or judgment and may adjudicate thereupon as if no such defect had existed.

Warrant of commitment not to be void if there be a good conviction or order.
42 & 43 Vict. c. 49
s. 39.

8. A warrant of commitment shall not be held void by reason of any defect therein if it be therein alleged that the offender has been convicted or ordered to do or abstain from doing any act or thing required to be done or left undone and there is a conviction or order which is good and valid or which may be amended and made good and valid under this Act to sustain the same.

Warrant of distress not to be void if there be a good conviction or order.
Ib. sub-s. 4.

9. A warrant of distress shall not be deemed void by reason only of any defect therein if it be therein alleged that a conviction or order has been made and there is a conviction or order which is good and valid or which may be amended and made good and valid under this Act to

to sustain the same, and a person acting under a warrant of distress shall not be deemed a trespasser from the beginning by reason only of any defect in the warrant or of any irregularity in the execution of the warrant; but this enactment shall not prejudice the right of any person to satisfaction for any special damage caused by any defect in or irregularity in the execution of a warrant of distress, so however that if amends are tendered before action brought, and if the action is brought such amends are paid into court in the action, and the plaintiff does not recover more than the sum so tendered and paid into court, the plaintiff shall not be entitled to any costs incurred after such tender, and the defendant shall be entitled to costs, to be taxed as between attorney and client.

MELBOURNE:

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