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*614 The Queen v Hughes

Positive/Neutral Judicial Consideration

Court
Crown Cases Reserved

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Crown Case Reserved

Lopes , Hawkins , Lindley , Manisty , Field and Denman ,
JJ. , Pollock and Huddleston , BB. , Lord Coleridge , C.J.

1879 June 21

Perjury—Petty Sessions—Jurisdiction of Justices—Information—Warrant, Illegal Issue of.

H., a police constable, procured a warrant to be illegally issued, without a written information or oath, for the arrest of S., upon a charge of "assaulting and obstructing him, H., in the discharge of his duty." Upon such warrant S. was arrested and brought before justices, and was, without objection, tried by them and convicted.

H., was afterwards indicted for perjury committed on the said trial of S., and convicted:—

Held, by Lord Coleridge, C.J., Denman, J., Pollock and Huddleston, BB., Field, Lindley, Manisty, Hawkins, and Lopes, JJ. (Kelly, L.C.B., dissenting), that H. was rightly convicted, notwithstanding that there was neither written information, nor oath, to justify the issue of the warrant, and that the justices had jurisdiction to hear the charge, though the warrant upon which the accused was brought before them was illegal.

CASE reserved by Bramwell, L.J.

"Owen Hughes was convicted before me at the last Anglesea *615 Assizes, of perjury. He swore falsely and corruptly on the hearing of a charge against John Stanley at petty sessions, for an assault

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on him, Owen Hughes, and for obstructing him, being a police constable, in the discharge of his duty. But it was objected that the defendant Owen Hughes should be acquitted, on the ground that the proceedings were informal and without jurisdiction in the magistrates who heard the case. Hughes went to the office of the clerk to the justices, saw there a clerk of the clerk, and told him he wanted a warrant against John Stanley, for assaulting him and obstructing him in the discharge of his duty. The clerk gave him a form of a warrant to that effect, which Hughes took to a magistrate, who signed it. There was no written information nor oath by Hughes, or any other person, to found or justify the issuing of the warrant. Stanley, however, was arrested on the warrant by Hughes and brought before the magistrates. The case was gone into of assault and obstruction. No objection was taken by Stanley, who defended himself, and called a Witness to shew he was not guilty. I overruled the objection, and, as I have said, the defendant Hughes was convicted.

"I have now to ask the Court for the consideration of Crown cases reserved, whether, because there was no written information, nor oath, I ought to have directed an acquittal?—If I ought, the conviction should be quashed, otherwise not."

Bramwell, L.J., further, in answer to questions put by this Court, reported as follows:—

> "There was no evidence before me that the warrant on which the man Stanley was arrested was produced before the justices who convicted him. No one thought it necessary to inquire into such a matter. The case before me was conducted on the footing that the case before the magistrates was conducted in the same way as it would have been if the warrant had been issued on a written information duly sworn to."

[The case was twice argued, the first time before five judges who, differing in opinion, ordered the case to be re-argued.]

C. S. C. Bowen (*Muir Mackenzie* , with him, for the prisoner). The prisoner was not guilty of perjury, because the proceedings in which he was sworn were coram non judice. In order to decide this, it is necessary to consider the requisites for giving to justices ***616** jurisdiction. There is, however, some difficulty in ascertaining under what statute the conviction of Stanley was supposed to be. Probably it was under 34 & 35 Vict. c. 112, s. 12 , which is, "Where any person is convicted of an assault on any constable when in the execution of his duty, such person shall be guilty of an offence against this Act, and shall, in the discretion of the Court, be liable either to pay a penalty not exceeding twenty pounds, and, in default of payment, to be imprisoned, with or without hard labour, for a term not exceeding six months, or to be imprisoned for any term not exceeding six, or in case such person has been convicted of a similar assault within two years, nine months, with or without hard labour." It is not stated in the case what the sentence was, but it is suggested that it

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was one of six months' imprisonment with hard labour. If the conviction was not under the above section it must have been supposed by the justices that they were convicting under 24 & 25 Vict. c. 100, s. 38 . "Whosoever shall assault any person with intent to commit felony, or shall assault, resist, or wilfully obstruct any peace officer in the due execution of his duty, or any person acting in aid of such officer. … shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding two years, with or without hard labour." If so, they were convicting summarily under a statute which did not empower them to convict summarily.

[KELLY, C.B. What was the charge made against the prisoner at the time, and how and in what shape was it made?]

That cannot be clearly ascertained from the case. It is contended there was no legal charge.

The point raised by the case, which states that there was no information or oath in writing, is, whether, in the absence of any written information or oath, the justices had jurisdiction. Assuming that the conviction was under 34 & 35 Vict. c. 112, s. 12 , the procedure is regulated by that statute, s. 17 of which enacts that any offence against that Act may be prosecuted before a court of summary jurisdiction in England in manner directed by 11 & 12 Vict. c. 43 , and any Act amending the same. It is a statutory jurisdiction given to justices to convict summarily. Such jurisdiction created by statute is confined by statute, and ***617** but for the statute, and in conformity with its provisions, the justices have no jurisdiction. The above statute incorporates the procedure given in 11 & 12 Vict. c. 43: Jervis's Act. The object of this latter statute, as appears from the preamble thereto, was to consolidate the statutes with regard to the duties of justices in respect of summary convictions and orders, and to define such duties clearly by positive enactment, as well as to amend the procedure. The information always was, and is still, the foundation of the jurisdiction of justices in summary convictions, and the basis of all the subsequent proceedings. In Paley on Convictions, p. 64 (5th ed.), by Macnamara, this doctrine is clearly laid down. It is there said: "It is requisite in all summary proceedings of a penal nature that there should be an information or complaint, which is the basis of all the subsequent proceedings, and without which, the justice is not authorized in intermeddling, except when he is empowered by statute to convict on view," and, further, "a sufficient information by competent persons relating to a matter within the magistrates' cognizance gives him jurisdiction, irrespective of the truth of the facts contained in it. … as, on the one hand, the information is not invalidated by reason of the statements being false, so, on the other, it cannot be rendered valid by the testimony offered in support of it, for the office of the evidence is to prove, not to supply, a legal charge." Justices are not to wade through the evidence offered, and therefrom to collect a charge, but a specific charge is first to be made, and the evidence taken, directed to prove that charge. It is of importance that justices should be compelled to act in strict conformity with the procedure laid down for them in Jervis's Acts, for any looseness of practice in the granting of warrants, or in the dispensing with proper charges or informations, might result in serious mischief. Under 11 & 12 Vict. c. 43, Jervis's Act, the information required is a written one. Sect. 1 of that Act enacts, that in all cases where an information shall be laid, or complaint made, the justices may issue a summons requiring the person summoned to answer the information

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or complaint. Sect. 2 enables justices, if they think fit, upon oath or affirmation substantiating the matter of such information or complaint, to issue their warrant to arrest the party charged, or complained against, if he does not appear to the *618 summons. Sects. 4, 7, 8, 9, shew that it was intended that the information should be written. Sect. 10 enacts that every information for any offence punishable upon summary conviction, unless some particular Act shall otherwise require, may be made or laid without any oath or affirmation being made of the truth thereof, except where the justices shall issue their warrant in the first instance, and in every such case the matter of such information shall be substantiated upon oath before any such warrant shall be issued. Here the warrant was issued without any such information. The information, the basis of all subsequent proceedings, was absent. The language of s. 10 is imperative. The justices have to deal with the hearing of the information, that is all they have jurisdiction to do. The submission or consent of Stanley could not give jurisdiction. Consent gives no jurisdiction in criminal matters; and with regard to procedure, there can be no waiver in a criminal case.

[KELLY, C.B. If there is no charge, how can what is sworn to be material to a charge?]

It cannot. What a witness says on the trial is not the charge. In order to constitute perjury, there must be wilful and corrupt false swearing, or affirmation, upon a legally made charge. In *Reg. v. Carr* [1] it was held that it should be proved distinctly on the trial of an indictment for perjury what the charge was, on the hearing of which the false evidence was given. In *Reg. v. Scotton* [2] it was held that an information not on oath was not sufficient to give justices jurisdiction to entertain a charge of an offence under 6 & 7 Wm. 4, c. 65. There is no substantial difference in the wording of that enactment and Jervis's Act, 11 & 12 Vict. c. 43, upon this point. In *Caudle v. Seymour* [3] a warrant issued by justices was held bad which did not shew any information on oath upon which it had been issued. Patteson, J., there says: “The everyday practice is to state an information on oath; if the magistrate omits that he must take the consequences.” Coleridge, J., in the same case says:

> “It is true that a magistrate here has jurisdiction over the offence in the abstract, but to give him jurisdiction in any particular case it must be shewn that *619 there was a proper charge upon oath, in that case. A man has no right, because he is a magistrate, to order another to be taken for an offence over which he has jurisdiction, without a charge regularly made.”

It is admitted that the justices had jurisdiction in the abstract to try Stanley for the assault, but it is contended that in order to put him on his trial an information on oath was requisite. [He referred also to *Reg. v. Pearce* [4] .]

[DENMAN, J., called attention to *Reg. v. Millard* [5] .]

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In that case the charge was under a special statute, which rendered a sworn information unnecessary. The case of *Turner v. Postmaster-General* [6] , which will be relied on for the prosecution, did not turn upon Jervis's Act, but upon a special statute. It is a decision that the want of an information and summons may, under the statute there in question, be cured by appearance before justices without objection. That is, that under that particular statute, the information did not go to the root of the jurisdiction of the justices. The information is not mere process to bring the accused before the Court, it is procedure which cannot be waived, it is the foundation of Jurisdiction, it is the charge which has to be inquired into, and in support of which evidence is adduced, to use the expression given in s. 9 of Jervis's Act.

In the cases where there has been said to have been a waiver of some irregularity in the mode of summoning the accused, it is perhaps hardly correct to use the expression "waiver." In such cases, which will be found to be civil cases, or quasi-civil cases, such as bastardy proceedings, the getting the accused before the tribunal is not the foundation of jurisdiction. A man cannot waive that which, for the protection of the public, the law requires. The justices to proceed lawfully, must have jurisdiction, when they enter upon the inquiry, to make the inquiry. Denman, C.J., in *Reg. v. Bolton* [7] says, "The question of jurisdiction is determinable, at the commencement, not at the conclusion, of the inquiry." See also notes to *Crepps v. Durden* [8] .

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[HAWKINS, J. Had the justices jurisdiction to try for a common assault?]

What the charge was before the justices is uncertain, a man cannot be tried for, or charged with, one offence, and convicted of another. The justices could not listen to a charge of a common assault, and on that take evidence, and then convict of assault on a constable in the execution of his duty. *Martin v. Pridgeon* [9] ; *Reg. v. Brickhall* [10] ; *Blake v. Beech* [11] .

Poland (*Sir John Holker, A.G.* , and *Dicey* , with him), for the Crown. The justices had jurisdiction to try Stanley. Their jurisdiction did not depend upon the regularity of the warrant by means of which he was brought before them. It must be admitted that the warrant was improperly issued, but Stanley was brought before the justices, and had to be dealt with. Stanley raised no objection to being then and there dealt with, and it would be a curious result if the prisoner Hughes could now take the objection. The question is not whether Stanley was properly convicted, but whether there was a trial, a legal proceeding, on which Hughes swore falsely and corruptly. The warrant is not the charge, it is a means of procuring the attendance of the accused. The charge was made orally, and it is on the charge so made that Hughes swore falsely and corruptly. The present case is covered substantially by authority. In *Reg. v. Millard* [12] upon an indictment for perjury, Wightman, J., ruled "that the magistrates had jurisdiction to hear a charge under the Malicious Trespass Act, although the information was not on oath, and that the omission to lay the information on oath was an error in procedure only." This ruling of Wightman, J., was upheld by the Court for the consideration of Crown Cases Reserved, that Court holding that the oath was matter of procedure, and that the absence of it did not oust the jurisdiction of the justices. In the case of *Turner v. Postmaster-General*

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[13] , in argument, the passage from Paley on Convictions, relied upon in the present ***621** case, was read, and the Court there held, that the want of an information and summons was cured by the appearance of the accused. If a person is before the justices, and is informed of the charge against him, and he desires then and there to meet it, and requires no adjournment, it cannot be that the justices are bound to refuse to hear the charge, and to await his being summoned, or brought before them, by formal process. The mode by which an accused person is brought before the Court, is immaterial, when he is there taking no objection. Anything in the nature of process, or procedure, may be waived: *Blake v. Beech* [14] ; *Reg. v. Berry* [15] ; *Reg. v. Fletcher* [16] ; *Reg. v. Smith* [17] ; *Reg v. Hurrell* [18] .

C. S. C. Bowen , replied. In *Rex v. Fearshire* [19] , Lord Mansfield says: "It is the duty of the magistrate to take all charges of whatsoever nature, kind, or complexion they may be, in writing," and further he speaks of it as an "indispensable duty." It is by enforcing regularity in these matters that justice is secured. The position taken on behalf of the accused is not shaken by the cases cited, for the reasons given; and as to the bastardy cases, in the first cited, *Reg v. Berry* [20] , Lord Campbell says: "The proceeding to obtain an order of affiliation and maintenance is not a proceeding in poenam to punish for a crime, but merely to impose a pecuniary obligation, and is a civil suit within the meaning of 14 & 15 Vict. c. 99, ss. 2, 3," and he cites for that proposition *Reg. v. Lightfoot* [21] . And further, he goes on to say that, in such a case, the summons is "mere process to bring the defendant into court in a civil suit." In *Reg. v. Fletcher* [22] the case of *Reg. v. Berry* [23] is followed, and its reasoning approved. The judgment of Field, J., in *Blake v. Beech* [24] is not against this contention, he decided that Jervis's Act did not apply in that case. The judgments of the two judges who held that Jervis's Act did there apply, are in the prisoner's favour. The principle of their decision is, that a statutory jurisdiction is to be exercised as the ***622** statute points out. To use the words of Cleasby, B., in that case, and to apply them to the present, "It is not a matter within the discretion of the magistrates whether a man shall be put on his trial without any proper preliminary proceedings." Magistrates should be held strictly to Jervis's Acts: those Acts should not be reduced to the position of a "Justices' Manual," or "Useful Hints for Magisterial Proceedings."

LOPES, J.

The facts of this case, and the Acts of Parliament and authorities which bear upon it, have been fully gone into by the judgments of the other members of the Court, which I have read. I agree in substance with the judgments which will be delivered, but do not desire to commit myself to any opinions which have been expressed collateral to the question before us. I think the warrant in this case was mere process for the purpose of bringing the party complained of before the justices, and had nothing whatever to do with the jurisdiction of the justices. I am of opinion that whether Stanley was summoned, brought by warrant, came voluntarily, was brought by force, or under an illegal warrant, is immaterial: being before the justices, however brought there, the justices, if they had jurisdiction, in respect of time and place over the offence, were competent to entertain

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the charge, and being so competent, a false oath, wilfully taken, in respect of something material, would be perjury.

HAWKINS, J.

I am of opinion that the conviction was right, and ought to be affirmed. In arriving at this opinion, I have assumed as a fact, from the case as stated, that Stanley was arrested and brought before the justices upon as illegal a warrant as ever was issued. A warrant signed by a magistrate, not only without any written information or oath to justify it, but without any information at all. It follows that the magistrate who issued the warrant, and the defendant who with knowledge of the illegality executed it, were liable to an action for false imprisonment. If authority were wanting for this, I need but refer to *Caudle v. Seymour* [25] ; *Morgan v. Hughes* [26] , per Ashurst, J.; *Stevens v. Clark* [27] . Wrongful however as were the proceedings by which Stanley was brought into the presence of the magistrates, to answer a charge which up to that moment had never been legally preferred against him, before those magistrates, and in his presence, a charge was made, over which, if duly made, they had jurisdiction. Upon that charge it was that the hearing proceeded; and in support of that charge it was that the defendant was sworn; and in giving his evidence swore corruptly and falsely. The case expressly finds, that the alleged perjury was committed "on the hearing of a charge against John Stanley at petty sessions for an assault on him, owen Hughes, and for obstructing him, being a police constable, in the discharge of his duty." Comparing this finding with the language of 24 & 25 Vict. c. 100, s. 38, which enacts that "whosoever shall assault, resist, or wilfully obstruct any peace officer in the due execution of his duty, shall be guilty of a misdemeanour," I come, without hesitation, to the conclusion that the charge was that of the indictable offence created by that statute; and I do not think a doubt could have been suggested as to this, had we not been informed in the course of the argument that the justices, in the result, dealt summarily with the case, and convicted Stanley under s. 12 of 34 & 35 Vict. c. 112 , of an assault upon Hughes, being a constable in the "execution" of his duty, and sentenced him to six months' imprisonment with hard labour. The case does not find in what form the charge was made, whether in writing or otherwise. In my opinion writing was unnecessary; but even were it so, I would, in the absence of evidence to the contrary, assume it to have been properly made, as did Crompton, J., in *Turner v. Postmaster-General* [28] . Now a charge having been made before them, of an indictable offence, committed within their jurisdiction, by a person then bodily present, it seems to me the justices were bound to take cognizance of it. The 17th section of 11 & 12 Vict. c. 42, expressly recognises the legality of depositions of witnesses taken in cases in which persons charged with indictable offences are "brought" before justices "with or without warrant." Had the justices proceeded upon the defendant's deposition to commit Stanley for trial, instead of convicting him ***624** summarily; it is difficult to see what possible objection could have been made to the legality of their proceedings. They did not, however, think fit to adopt that course. They took, it is true, the evidence on oath of the defendant upon the charge for the indictable misdemeanour created by 24 & 25 Vict. c. 100; but having done so, they proceeded to convict summarily under a different statute, 34 & 35 Vict. c. 112, without, as I collect, any new information or charge of the latter offence. In short, they convicted him of an offence with

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which he had never been legally charged. In this, I am of opinion, they were wrong; and upon this ground I am strongly inclined to think the conviction may be quashed. *Martin v. Pridgeon* [29] , and *Reg. v. Brickhall* [30] , more particularly referred to hereafter, are strong authorities in favour of this view. It does not, however, seem to me to be necessary to decide that point; for in the case before us we have only to determine whether the justices, at the moment when they swore the defendant in support of the charge which was made, had jurisdiction to hear that charge. Whether they afterwards pronounced a legal or an illegal judgment is immaterial to the present inquiry. Assuming, however, contrary to the view I have taken, that the charge upon which the defendant was sworn was of an offence punishable upon summary conviction under 34 & 35 Vict. c. 112, and that verbal information of that offence was made before the magistrate, who, without written information or oath, illegally issued the warrant under which Stanley was brought before the petty sessions, I should still be of opinion that the justices in hearing that charge, and taking evidence in support of it, were acting within their jurisdiction. There is a marked distinction between the jurisdiction to take cognizance of an offence, and the jurisdiction to issue a particular process to compel the accused to answer it. The former may exist; the latter may be wanting. To found jurisdiction to take cognizance of an offence, notwithstanding the dictum of Lord Mansfield in *Rex v. Fearshire* [31] , it has been constantly held that a written information is not necessary: *per* Grose, J., in *Rex v. Thompson* [32] ; *per* ****625*** Park, B., in *Reg. v. Millard* [33] ; per Erle, C.J., in *Reg. v. Shaw* [34] ; and per Crompton, J., in *Turner v. Postmaster-General* [35] ; see also old forms of conviction, in which the information is set out thus: "A. B. … giveth me to understand and be informed, &c." The information, which is in the nature of an indictment, of necessity precedes the process; and it is only after the information is laid, that the question as to the particular form and nature of the process can properly arise. Process is not essential to the jurisdiction of the justices to hear and adjudicate. It is but the proceeding adopted to compel the appearance of the accused to answer the information already duly laid, without which no hearing in the nature of a trial could take place (unless under special statutory enactment). If a mere summons is required, no writing or oath is necessary. A bare verbal information is sufficient. If a warrant is required, then, and for that purpose only, an oath substantiating the information is requisite, not only by the provisions in Jervis's Acts, so often referred to, but by the common law, of which it was always a doctrine that a warrant which deprives a man of liberty ought not to issue without oath of the truth of the information: see *Reg v. Heber* [36] . To justify a warrant, I am also of opinion that a written information is necessary. In the case of indictable offences it is expressly made so by s. 8 of 11 & 12 Vict. c. 42. The illegality of the warrant and of the arrest did not however affect the jurisdiction of the justices to hear the charge, whether that hearing proceeded upon a valid verbal information, followed by an illegal process, or upon information for the first time laid in the presence of Stanley, upon which he was then and there instantly charged. The dictum of Holt, C.J [37] , is an express authority recognising the legality of a conviction upon an information instanter. Stanley might, it is true, had he known of the illegality of his arrest, have demanded his release from it, and prayed for an adjournment to a future day, to enable him to prepare his defence. This I think it would have been the duty of the magistrates to grant: see per Crompton, J., ****626*** in *Turner v. Postmaster-General* [38] ; and *per* Blackburn, J., in *Reg. v. Shaw* [39] .

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A refusal to do this, however, would not have destroyed their jurisdiction, though it might possibly have afforded good ground for setting aside the conviction, on the ground that they had not allowed the accused sufficient opportunity to answer the charge. Another course might have been pursued, viz., to commence to hear, and if necessary adjourn, the further hearing to a future day. A power expressly given by 11 & 12 Vict. c. 43, s. 16 . It so happens, however, in the case before us, that neither the magistrates, nor Stanley, were aware of the illegality of the warrant, and so the hearing proceeded, without objection, and as if all things were in order. To use the language of the case: "The case was gone into of assault and obstruction." Stanley "defended himself, and called a witness to shew he was not guilty," and in the result was convicted, as I have above mentioned. Possibly that conviction may be open to the objections that the justices had no jurisdiction to convict of the offence created by statute 34 & 35 Vict. c. 112 , when the only charge made against him was of the misdemeanour created by 24 & 25 Vict. c. 100 , on the authority of *Reg. v. Brickhall* [40] , or upon the ground that, under the circumstances, Stanley had not such opportunity of answering, and time to answer, as he was in common justice entitled to: see *Blake v. Beech* [41] . If the contention on the part of the defendant be correct, then Stanley, even though he had suffered the whole imprisonment to which he was sentenced, would be liable to be tried again, and could not plead autrefois convict; and if he had been acquitted would have been in no condition to plead autrefois acquit. Two very startling consequences. A flood of authorities might be cited in support of the proposition that no process at all is necessary, when, the accused being bodily before the justices, the charge is made in his ***627** presence, and he appears and answers to it. In 2 Hawk. 28, it is said: "It seemeth plain, from the nature of the thing, that there can be no need of process where the defendant is present in Court, but only where he is absent. In *Reg v. Stone* [42] Lord Kenyon said: "Justice requires that a party should be duly summoned and fully heard before he is condemned; but if he be stated to be present at the time of the proceedings, and to have heard all the witnesses, and not to have asked for any further time to bring forward his defence, if he had any, this at all times has been deemed sufficient." *Reg. v. Shaw* [43] is to the same effect, and appears to me to be decisive of the present case. The defendant in that case was convicted of perjury committed upon the hearing of a charge punishable on summary conviction, against one Kilshaw, a beer-shop keeper, under 18 & 19 Vict. c. 118. The proceedings, not being prescribed by that Act, were regulated, as are proceedings for the offence of which Stanley was convicted, by Jervis's Act, 11 & 12 Vict. c. 43. At the trial no proof was given of any written information warranting a summons, indeed the evidence shewed that the summons was filled up by the magistrate's clerk, handed to a superintendent of police, who took it to a magistrate, who read and signed it, without making any inquiry, or requiring any statement of fact. Very like the circumstances of the present case. It was proved, however, that Kilshaw appeared before the justices, that the charge was then made against him, that he answered it, and that the defendant committed perjury in evidence which he gave on his behalf. It was objected that the justices had no jurisdiction to hear the charge against Kilshaw, because there was no information to justify the issuing of a summons. Erle, C.J., said: "In my opinion, if a party is before a magistrate and he is then charged with the commission of an offence within the jurisdiction of that magistrate, the latter has jurisdiction to proceed with that charge without any information or summons having been previously issued, unless the statute

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creating the offence imposes the necessity of taking some such step." See also *per* Blackburn, J.: "I think when a man appears before justices, and a charge is then made against him, if he has not been summoned, he has a good ground for asking for an adjournment; if he ***628** waives that, and answers the charge, a conviction would be perfectly good against him, and the witnesses if they swore falsely would be liable to indictment for perjury." To the same effect are *Reg. v. Millard* [44] ; *Reg. v. Berry* [45] ; *Reg. v. Simmons* [46] ; *Reg. v. Smith* [47] ; *Reg. v. Fletcher* [48] ; *Turner v. Postmaster-General* [49] ; in which latter case the defendants were in custody upon a charge of felony which could not be sustained; but, before the magistrates, were charged with, and convicted of, a different offence, for which they could not be legally arrested without warrant on information on oath; yet the Court upheld the conviction. I do not look upon *Blake v. Beech* [50] as deciding that the magistrates in the case then before them had no jurisdiction, but only that the conviction ought to be quashed for irregularity under the peculiar circumstances of that case. *Reg. v. Pearce* [51] only decides that perjury cannot be committed by a witness who is sworn in a non-existing cause, which is undeniable. That case would have been a strong authority for the defendant if no charge had been made against Stanley before the defendant was sworn. *Reg. v. Scotton* [52] was the strongest authority cited in favour of the defendant. That case, however, turned upon the peculiar language of the 6 & 7 Wm. 4, c. 65, s. 9 , "provided that before any proceedings shall be had or taken upon such information," the charge shall be deposed to on oath, &c. It does not become necessary, therefore, to consider how far that case has been affected by more recent decisions. In the course of the argument there was some discussion as to whether the warrant was produced before the justices. In my opinion whether it was, or not, is immaterial; had it been so, it would have proved nothing, for it could not in any sense be treated as the information. It was the act and process of the magistrate alone; not the information of the informer; and the ***629** recital of an information in it would be no evidence that there was such an information in fact: see *Stevens v. Clark* , per Creswell, J [53] I have carefully considered the provisions of Jervis's Acts, 11 & 12 Vict. cc. 42 and 43, but I find in them nothing at all militating against the view I have expressed. The sections of those statutes to which our attention was called which regulate the formalities to be observed when a charge is made against an absent person, whose presence it is desired to procure, do not seem to me to have any bearing upon a case like the present, where the charge is made in the presence of the accused, who is, then and there, called upon to answer it, as he lawfully may be, according to the dictum of Holt, C.J., to which I have referred. In such a case it is in my opinion altogether immaterial, so far as the jurisdiction of the justices to hear that charge is concerned, whether the accused was before them voluntarily or otherwise; or on legal or illegal process. I have already pointed out that Stanley may have good grounds for asking that his conviction may be quashed, irrespective of the invalid objection raised by the defendant. But this conviction in my opinion ought to be affirmed.

POLLOCK, B., and LINDLEY, J.

concurred in the judgment of Hawkins, J.

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MANISTY, J.

I am of opinion that this conviction should be affirmed. The case finds that Hughes swore falsely and corruptly on the hearing of a charge against Stanley at petty sessions for an assault on him (Hughes) and for obstructing him, being a police constable, in the execution of his duty—and the question is, whether the justices had jurisdiction to hear that charge, Hughes having been brought before them by means of a warrant signed by a magistrate, but which warrant had been issued without any information in writing, or on oath. By virtue of the provisions in several statutes, which it is unnecessary for me to repeat, justices of the peace assembled in petty sessions have jurisdiction to hear a charge of an assault upon a constable in the execution of his duty, but it is only by the Prevention of Crimes Act, 1871 (34 & 35 Vict. c. 112) that they can summarily convict and punish for that offence. The charge made against Stanley might have been lawfully made and heard, without any previous summons or warrant. Hughes might have apprehended Stanley in the act of committing the alleged assault. A magistrate seeing the alleged assault committed, might have, then and there, ordered Stanley into custody, or Stanley, knowing or believing that he would be apprehended if he did not appear, might have appeared voluntarily before the justices to answer the charge; in any of which cases I cannot doubt, but that the justices not only might, but must, have heard the case, and disposed of it somehow. It would be very strange, to say the least of it, if the law be, that notwithstanding the justices would have had jurisdiction to hear the charge if there had not been a warrant, they had no such jurisdiction in consequence of there being a warrant, unsupported by a sworn information. Nothing short of a clear statutory enactment would justify such a conclusion. That there is no such statutory enactment I think is clear. But it is said there are decisions which govern the case. The decision most relied upon on behalf of the prisoner Hughes is *Reg. v. Scotton* [54] , but it will be seen by examining that case that the very ground upon which it was decided is wanting in the present case. The indictment was for perjury on the hearing before justices of an information laid under 1 & 2 Wm. 4, c. 32, ss. 30 and 41 , and the Court held, that the justices had no jurisdiction to hear it, because by s. 9 of 6 & 7 Wm. 4, c. 65 , it was expressly made a condition precedent to any further step, beyond the information, that the matter of the information should be deposed to by oath of the informer, or some other credible witness, and no such deposition had been made. Whether that case was rightly decided may, I think, admit of considerable doubt, having regard to the qualified language of the proviso at the end of s. 9, but, assuming the right construction to have been put upon it, there is no such enactment in the present case, or anything like it. I think it unnecessary to review all the cases which were cited in the course of the argument, partly because I do not think any of them are conclusive either way; but mainly because I found my judgment upon this, that the ***631** provisions contained in the 17th section of the 34 & 35 Vict. c. 112 (which incorporates the 11 & 12 Vict. c. 43) relative to process in proceedings for the purpose of bringing accused persons before justices, are in my opinion directory only, and do not in any way affect the jurisdiction of justices to hear charges made against persons who are before them, and who are accused of offences over which they have jurisdiction. The proviso at the end of s. 1 of 11 & 12 Vict. c. 43 , strongly supports this view. We are not told by the learned judge who has stated this case, how the justices dealt with Stanley, but we are informed by counsel at the bar that they convicted him summarily, and sentenced him to

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imprisonment. In my opinion it is immaterial, for the present purpose, how the justices disposed of the charge, the only question before us being whether the justices had jurisdiction to hear it, and to receive evidence upon oath in support of it. I think they had, and that the question put to us should be answered in the affirmative.

FIELD, J.

I am of opinion that this conviction should be affirmed. I do not desire to add anything, except that, after the discussion in the present case, I have again considered the case of case of *Blake v. Beech* [55] , and with the result that I am unable to alter the view which I then took of that case.

HUDDLESTON, B.

The question in this case is: whether a conviction for perjury committed by the prisoner Hughes before justices should be quashed because there was no information on oath for the warrant upon which Stanley, the party charged, was brought before the justices.

The charge against Stanley before the justices was for obstructing Hughes, a police constable, in the discharge (execution) of his duty.

It is not stated in the case under what statute the charge was made against Stanley; it might therefore have been under 34 & 35 Vict. c. 112, s. 12 , by which Stanley might be convicted summarily; or it might have been under 24 & 25 Vict. c. 100, s. 38 , by which he might have been sent for trial to the assizes or sessions. If the charge be far an offence under the former Act it ***632** may, by s. 17, be prosecuted in manner directed by Jervis's Act, c. 43. Sect. 1 of that Act provides that "where an information shall be laid that any person has committed any offence for which he is liable by law on summary conviction, the justice may issue his summons." This is the process by which the person to be charged is called on to appear. By s. 2: If, being served, the party does not appear, a warrant may issue, or a warrant may issue in the first instance if the justice shall think fit; but in both these cases the matter of the information must be substantiated to the satisfaction of the justice by oath, or affirmation, and if the summons is not obeyed the justice may proceed ex parte on proof of due service. By s. 10 it is declared (that is declaratory of the Common Law), and enacted, that the complaint, in case of an order, and the information in case of a summary conviction, shall be made or laid without any oath or affirmation, except where warrants are issued in the first instance to apprehend. And then the matter of the information must be substantiated by the oath or affirmation of the informant. Sect. 13 deals with the appearance or default of the party charged, and provides that the case may be heard in his absence, on due proof of the service of the summons, or a warrant for his apprehension issued and committal, and for the dismissal of complaint or information if the complainant or informant does not appear by himself, counsel or attorney, and for the adjournment of the hearing, and concludes thus "but if both parties appear either personally, or by their respective counsel or attorneys, before the justice or justices who are

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to hear and determine such complaint or information, then such justice or justices shall proceed to hear and determine the same." The object of all these provisions is to bring the party accused before the justices, to enforce his presence, and to enable them to deal with him in his absence; but when he is before them the justices are required, and shall proceed, to hear and determine.

The information on oath is not necessary to give the justices jurisdiction to try, though it is necessary to give them jurisdiction to issue a warrant to apprehend. The jurisdiction to try arises on the appearance of the party charged, the nature of the charges, and the charging of the defendant. Sect. 14 shews what is to take place at the hearing, "when such defendant shall be present **633* at such hearing, the substance of the information shall be stated to him" (this is unchanging). The word "state" is important as pointing on that no summons, information, or other document is to be read or shewn to him. An information is nothing more than what the word imports, namely the statement by which the magistrate is informed of the offence for which the summons or warrant is required, and it need not be in writing unless the statute requires. The magistrate to whom it is made is not necessarily, and very often is not, one of the magistrates by whom the case is subsequently heard. In practice an information is never produced before the Justices. If in writing it remains with the magistrate granting the summons or warrant, as the warrant remains in the custody of the constable. The clerk to the justices, or the police officer present, states the substance of the information, that is the nature of the charge. Sometimes where there is a charge sheet, as in the metropolitan district, reading from it, otherwise not. The charge sheet is merely the statement drawn up by the inspector at the station of the charge preferred before him. He states in fact the substance of the charge or information, and the prisoner is called on to plead. He may admit the truth and plead guilty, or he may not admit the truth and desire to be tried for it—or he may apply to adjourn, or object to the jurisdiction. But if he make no objection (and here it is found that Stanley made no objection) the case must proceed. Principle and the authorities seem to shew that objections and defects in the form of procuring the appearance of a party charged will be cured by appearance. The principle is, that a party charged should have an opportunity of knowing the charge against him, and be fully heard, before being condemned. If he has the opportunity, the method by which he is brought before the justice cannot take away the jurisdiction to hear and determine, when he is before them. The arrest of Stanley was no doubt illegal, there had been no information on oath to justify the warrant, and it might be, that if the objection had been taken the magistrates might have entertained it, but they could then and there have issued their summons for Stanley's apprehension at once on a verbal information which would be good: *Rex v. Fuller* [56] ; and have proceeded to hear and **634* determine, though if the defendant objected, they ought to adjourn, so that he might know the charge and be prepared to meet it. *Rex v. Stone* [57] was a conviction on the Game Laws. The objection that there had been no summons was abandoned on argument, and Lord Kenyon, at p. 649, and Mr. Justice Le Blanc, at p. 654, point out that, "Justice requires that a party should be duly summoned, and fully heard, before he is condemned, but if he be present at the time of the proceeding and heard the charge and the witnesses, and not have asked for any further time to bring forward his defence, if he had any, this at all times has been held sufficient." This was the case in which the objection was made to the conviction, that it did not appear on the face of it that the defendant was duly summoned, but the principle is the same. In *Reg. v. Shaw* [58] , where there was no information of any kind, Erle, C.J., points out that where the parties

are before a magistrate who has jurisdiction in respect of time and place (as the magistrates had here), no summons or information is necessary to complete his jurisdiction, unless the obligation is imposed by the statute which constitutes the offence (and certainly that is not imposed by the 11 & 12 Vict. c. 112). Blackburn, J., says no information was required. It is material to know what the charge is (and here the case finds Stanley was charged with obstructing the police constable in the discharge of his duty). Sometimes a summons or other writing may be required, but no antecedent information is necessary. In the absence of one, the party to be tried may, if he pleases, ask for an adjournment; but if he does not do so, the adjudication is good, and Montague Smith, J., says no information or summons is necessary where the party appears voluntarily (and I do not think that it makes any difference, if he be there compulsorily). It is to be observed that this decision was in 1865, and long after Jervis's Act came into operation. Indeed Jervis's Act is referred to by the prisoner's counsel. Mr. Bowen's argument in this case for the necessity of an information is entirely based on Jervis's Act. This case is therefore a distinct authority that the absence of such an information is not fatal to the jurisdiction of the justices. In *Turner v. Postmaster-General* [59] it was held, that though there was no information on oath (the 62nd section of 24 & 25 Vict. c. 97, the statute on which the defendant was convicted, requiring one), that after appearance, and no objection made, no objection to the jurisdiction of the justices to convict summarily could be taken, and that any defect in bringing the party before the justices was cured by appearance, and the merits of the case being gone into, and that the justices had jurisdiction. *Blake v. Beech* [60] is to the same effect. I wish to say that I subscribe to every word in my Brother Field's judgment in that case. The judgments of Cleasby, B., and Grove, J., are based on the ground that the objection to the want of an information was distinctly taken before the magistrates: *Reg. v. Berry* [61] . *Reg. v. Fletcher* [62] supports the same principle, though they were sought to be distinguished in argument by suggesting that the inquiry on which the perjury was committed was of a quasi-civil nature. The decision in *Reg. v. Scotton* [63] was on the ground that, by the words of the statute 6 & 7 Wm. 4, c. 65, s. 9 , it was a condition precedent to any further step that the matter of the information should be deposed to on the oath of the informer, or some other credible witness. I think, therefore, that Stanley being before the justices, and no adjournment asked for, and being charged with an offence punishable by summary conviction, though there had been no information on oath for the warrant, that false swearing on a material point would be perjury. The passages quoted in the argument from Paley on Convictions, and Smith's Leading Cases, have reference to the statement of the information in the old form of conviction, where of course it became necessary to shew in that part of the conviction all the ingredients to give jurisdiction. The form of conviction in Jervis's Act omits the information. If the offence with which Stanley was charged was one under 24 & 25 Vict. c. 100, s. 38 , for which he might be committed for trial at the assizes or quarter sessions, I entertain no doubt that there need not have been an information on oath ***636*** or warrant to give the justices jurisdiction to hear, and commit or discharge.

The practice of justices with regard to indictable offences is regulated by Jervis's Act, 11 & 12 Vict. c. 42, s. 8, which provides that where a warrant is to be issued, there must be an information in writing on oath, but not where a summons only is issued.

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There is no section pointing out what is to be done at the hearing, as in Jervis's Act, 11 & 12 Vict. c. 43, but the 17th section, which applies to the examination of witnesses, provides, "that where any person shall appear or be brought before any justice charged with any indictable offence, whether such person appear voluntarily upon summons, or have been apprehended, with or without warrant, or be in custody for the same or any other offence, depositions shall be taken, and the oath administered before the witness is examined." The justice here, therefore, has expressly jurisdiction to administer the oath to the witness when the party charged is before him, whether he appear or be brought there, and whether there be, or be not, a warrant, and therefore having jurisdiction to administer an oath, false swearing on a material point would be perjury.

But apart from either statute, I do not think it can be doubted that a police constable would be justified in taking into custody, without summons or warrant, any person who was assaulting and obstruct ng him in the execution of his duty, and subsequently charging him with that offence.

Upon such a charge being made, although it was entirely false, the magistrate before whom it is made must inquire into its truth, and to do so, must have jurisdiction to administer an oath, and false swearing in that inquiry on a material point would be perjury. In any view, therefore, I am of opinion that the conviction must be affirmed.

DENMAN, J.

I conceive the true meaning and effect of the case submitted to us by the learned Lord Justice to be as follows:—

John Stanley was improperly arrested by the defendant Owen Hughes, a constable, who had obtained a form of warrant from the clerk to the clerk of the justices, which was filled up by the clerk, or by Hughes, in the usual form as for a charge of assaulting and **637* obstructing Hughes, being a constable, in the execution of his duty. This warrant was improperly signed by the magistrate, without requiring any information, either in writing, or upon oath. The magistrates at petty sessions finding Stanley before them, and having been verbally informed, either by Hughes or their own clerk, that Hughes charged Stanley with assaulting him and obstructing him in the execution of his duty, and without inquiring how Stanley had been brought there, administered an oath to Hughes, and took evidence, in the course of which, Hughes committed perjury, if perjury in law could be committed in such a case; the only point raised for our consideration being that the absence of a written information, or of an information upon oath, was fatal to a conviction for perjury. No question was raised at the petty sessions as to the existence of an information, or as to the existence or legality of the warrant, or arrest. These objections were first suggested upon the trial of Hughes for perjury. Stanley made no objection to the charge being heard, and called a witness in his own behalf. He was, in fact, as was admitted upon the argument, though not stated in the case, convicted, and sentenced to six months' imprisonment with hard labour, a sentence which could only have been passed, upon summary conviction under the powers of 34 & 35 Vict c. 112, s. 12 . The case has been twice most ably and elaborately argued, and for some time I

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doubted whether the conviction could be sustained; but upon full consideration I am satisfied that it ought to stand. The main argument for the defendant was based upon the ground that the offence of which he was convicted was one under statute 34 & 35 Vict. c. 112, s. 12 , and that by virtue of s. 17 of that Act, coupled with the provisions of 11 & 12 Vict. c. 43 , thereby incorporated, the whole proceeding was void and without jurisdiction for want of an information upon oath. I am of opinion, however, that we ought not to have regard to the conviction, in considering whether perjury was committed, but to look to the moment at which the false evidence was given, and consider whether, at that moment, the magistrates had jurisdiction to hear that evidence judicially. And I think that they had jurisdiction to hear that evidence judicially if, at the time at which it was given, it was evidence which, in any possible event, they **638* might have acted upon judicially in a matter within their jurisdiction; whether the result of their acting upon it might have been to convict, or to acquit, or to adjourn, or to send for trial, or to take bail, or to do any other judicial act within their competency. At the moment at which the false evidence in question was given, it appears to me that there was nothing to compel the magistrates to inquire into the mode in which Stanley had been brought before them. If, as I suppose (and here I am putting the case as favourably as it can be put for the defendant), nothing more happened than that the magistrate inquired "what is the charge against that man?" And Hughes said in answer, "I charge him with assaulting me, and obstructing me in the execution of my duty." I apprehend that the magistrates would at once have had jurisdiction to put Hughes upon his oath and inquire into several matters upon any one of which the perjury might have been committed, wholly without reference to what they might in the result feel themselves bound to do, or not to do. For example, they might have inquired into the name and number of Hughes, and whether he was really a member of the police, and actually on duty at the time of the alleged assault, whether Stanley was really the person who had assaulted him or not, how he was dressed, whether he was alone or with others, &c., and, indeed, even if the jurisdiction of the magistrates to convict, depended upon whether he had arrested Stanley in the act, or brought him up upon a legal warrant afterwards obtained, this very question might have been a legitimate subject of inquiry. Considering that this was a case in which Hughes complained of an assault upon himself, it need not have occurred to the magistrates in the first instance that any warrant at all would have been necessary, for there is nothing in any of the statutes to repeal the common law, which would have enabled Hughes, if the charge were a true one, to bring Stanley at once before the magistrates without any warrant at all. The charge actually made, as stated in the case, according to my understanding of it, is much more nearly in accordance with the provisions of 24 & 25 Vict. c. 100, s. 38 , than with those of 34 & 35 Vict. c. 112, s. 12 . It included a breach of the peace, and I can see no reason why the magistrates, at all events in the absence of any objection on the **639* ground of the illegality of the arrest, or the want of an information, should not have administered an oath, and inquired into the charge, at all events until any doubt arose as to their jurisdiction to deal with it finally by conviction. It was contended that even under 11 & 12 Vict. c. 42 , relating to indictable offences, the right of the magistrates to inquire would not be well founded, in the absence of an information in writing or upon oath; but I am of opinion that there is nothing in that Act to destroy the jurisdiction of the magistrates to inquire into a charge of an indictable offence where the person charged is actually in custody before them. The 1st section of that Act shews that the provisions relating to warrants and informations are not intended to apply to such a case, but are merely provisions for the purpose of bringing people, not already in

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custody, before the justices. Their jurisdiction to convict appears to me to be a totally different question from the question whether they had jurisdiction to take evidence in such a case, but it is not necessary to consider further the question, whether the conviction was good or bad, and I express no opinion upon it. I cannot hold that the magistrates who tried and convicted Stanley (even if the conviction be one that cannot be supported) had no jurisdiction to administer an oath to Hughes, or that any evidence he gave relevant to a verbal charge of assault and obstruction was coram non judice. The case of *Reg. v. Scotton* [64] , which at first seemed to me to be in favour of the defendant's contention, is I think clearly distinguishable on the ground that there the Court thought that the only possible foundation of the magistrates' jurisdiction was an information, whereas in the present case there was nothing to prevent the magistrates from proceeding to inquire into a charge which, in at least one other lawful manner, might have been brought before them without any information at all, and either adjudicated upon by them, or sent for trial. In the view I take of this case, it is unnecessary to discuss more fully the contention of the defendants' learned counsel as to the applicability of Jervis's Acts to the case, upon the supposition that because the conviction was one under 34 & 35 Vict. c. 112 no evidence given upon the hearing could be the subject of an indictment for perjury in the absence of an information on oath ***640** or in writing. In my view, all that was necessary to give the magistrates jurisdiction to hear evidence was, that there should be before them a person charged with an offence within their general jurisdiction, under such circumstances as to ll upon them take evidence before they could decide whether they should exercise, or abstain from exercising, some legal power which they possessed. For the reasons above given, I think such was the case here and that the evidence falsely and corruptly given upon oath, and which must be taken to have been held by the learned Lord Justice to have been relevant, and material to the subject-matter of inquiry before the justices, cannot be said to have been coram non judice. The indictment, on being referred to, appears to have contained an allegation that the perjury was committed upon the hearing of a "complaint or information," and this is no doubt language which would at first sight lead one to expect that proof would have been given of a charge, made otherwise than in the way in which it appears to me that the case states the charge in this case to have been made. But I do not think that the words "complaint or information" are inconsistent with a verbal charge made under the circumstances suggested above. The statute 14 & 15 Vict. c. 100, s. 20 , which is applicable to the case, provides that "in every indictment for perjury it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what court or before whom the oath was taken, without setting forth the bill, answer, information, indictment, declaration, or any part of any proceeding, either in law or equity, and without setting forth the commission or authority of the court or person before whom such offence was committed." All that is necessary, since that statute, is that the indictment should shew that there was a proceeding pending before the Court over which the Court had jurisdiction, and I think this does sufficiently appear in the present case, and that it is not necessary to tie down the meaning of the words to any particular form of information or complaint. For these reasons I am of opinion that the conviction ought to be affirmed.

LORD COLERIDGE, C.J.

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I am desired to state that the Lord Chief Baron dissents from the judgment of the majority of the *641 Court. I had myself prepared a judgment, but after having had the advantage of reading the judgment of my Brother Hawkins, I do not think it necessary to read it, as, without binding myself to every single expression used by my Brother Hawkins, I concur in the result he has arrived at, and expressed in forcible language, and in the train of reasoning by which he has arrived at that result. This being also the view of the majority of this Court, the conviction will be affirmed.

Representation

Solicitors for prosecution: The Solicitors to the Treasury .
Solicitors for defence: Simpson, Hammond, & Co. , agents for J. W. Hughes , Bangor.

Conviction affirmed.

Footnotes

1 *10 Cox, C. C. 564 .*
2 *5 Q. B. 493; 13 L. J. (M.C.) 58; 8 Jur. 400; 1 New Sess. Cas. 27 .*
3 *1 Q. B. 889; 10 L. J. (M.C.) 130; 1 G. & D. 454; 5 Jur. 1196 .*
4 *3 B. & S. 531; 32 L. J. (M.C.) 75 .*
5 *22 L. J. (M.C.) 108; Dears. & P. C. C. 166; 17 Jur. 400 .*
6 *5 B. & S. 756; 34 L. J. (M.C.) 10; 10 Cox, C. C. 15 .*
7 *1 Q. B. 66; 10 L. J. (M.C.) 49 .*
8 1 Sm. L. C. 7th ed. p. 735.
9 *1 E. & E. 778; 28 L. J. (M.C.) 179 .*
10 *33 L. J. (M.C.) 156; 10 Jur. (N.S.) 677 .*
11 *1 Ex. D. 320; 45 L. J. (M.C.) 111 .*
12 *22 L. J. (M.C.) 108; D. & P. C. C. 166; 17 Jur. 400 .*
13 *5 B. & S. 756; 10 Cox, C. C. 15; 34 L. J. (M.C.) 10 .*
14 *1 Ex. D. 320; 45 L. J. (M.C.) 111 .*
15 *28 L. J. (M.C.) 86; 8 Cox, C. C. 121; 5 Jur. (N.S.) 228 .*
16 *40 L. J. (M.C.) 128; Law Rep. 1 C. C. R. 320 .*
17 *Law Rep. 1 C. C. R. 110; 37 L. J. (M.C.) 6 .*
18 *3 F. & F. 271 .*
19 *1 Lea. C. C. 202 .*
20 *28 L. J. (M.C.) 86; 8 Cox, C. C. 121; 5 Jur. (N.S.) 228 .*
21 *6 E. & B. 822; 25 L. J. (M.C.) 115 .*
22 *40 L. J. (M.C.) 128; Law Rep. 1 C. C. R. 320 .*
23 *28 L. J. (M.C.) 86; 8 Cox, C. C. 121; 5 Jur. (N.S.) 228 .*

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24 *1 Ex. D. 320; 45 L. J. (M.C.) 111* .
25 *1 Q. B. 889; 1 G. & D. 454; 5 Jur. 1196* .
26 *2 T. R. 225* , 231.
27 *1 C. & M. 509; 2 Mood. & Rob. 435* .
28 *5 B. & S. 756; 34 L. J. (M.C.) 10; 10 Cox, C. C. 15* .
29 *1 E. & E. 778; 28 L. J. (M.C.) 179* .
30 *33 L. J. (M.C.) 156; 10 Jur. (N.S.) 677* .
31 *1 Leach, C. C. 202* .
32 *2 T. R. 18* , 23.
33 *22 L. J. (M.C.) 108; Dears. & P. C. C. 166; 17 Jur. 400* .
34 *34 L. J. (M.C.) 169, 173; 10 Cox, C. C. 66* .
35 *5 B. & S. 756; 10 Cox, C. C. 15; 34 L. J. (M.C.) 10* .
36 *2 Barn. 101* .
37 *Rex v. Fuller, 1 Ld. Raym. 509* .
38 *5 B. & S. 756; 10 Cox, C. C. 15; 34 L. J. (M.C.) 10* .
39 *34 L. J. (M.C.) 169, 173; 10 Cox, C. C. 66* .
40 *33 L. J. (M.C.) 156; 10 Jur. (N.S.) 677* .
41 *1 Ex. D. 320* . The case of *Reg. v. Gillyard, 12 Q. B. 527; 17 L. J. (M.C.) 153* ; is a strong authority to show that the Queen's Bench have jurisdiction to quash on conviction upon other grounds than want of jurisdiction in the magistrates, e.g., on the ground of fraud, conspiracy, and perjury, in obtaining it.
42 *1 East, 649* .
43 *34 L. J. (M.C.) 169, 173; 10 Cox, C. C. 66* .
44 *22 L. J. (M.C.) 108; Dears. & P. C. C. 166; 17 Jur. 400* .
45 *28 L. J. (M.C.) 86; 8 Cox C. C. 121; 5 Jur. (N.S.) 228* .
46 Bell, C. C. 168; *8 Cox, C. C. 190; 28 L. J. (M.C.) 183* .
47 *Law Rep. 1 C. C. R. 110; 37 L. J. (M.C.) 6* .
48 *40 L. J. (M.C.) 128; Law Rep. 1 C. C. R. 320* .
49 *5 B. & S. 756; 10 Cox, C. C. 15; 34 L. J. (M.C.) 10* .
50 *1 Ex. D. 320; 45 L. J. (M.C.) 111* .
51 *3 B. & S. 531; 32 L. J. (M.C.) 75* .
52 *5 Q. B.; 13 L. J. (M.C.) 58; 8 Jur. 400; 1 New Sess. Cas. 27* .
53 *1 Car. & M. 509* .
54 *5 Q. B. 493; 13 L. J. (M.C.) 58; 1 New Sess. Cas. 27* .
55 *1 Ex. D. 320; 45 L. J. (M.C.) 111* .
56 *1 Ld. Raym. 509* .
57 *1 East, 639* , 648.
58 *34 L. J. (M.C.) 169, 173; 10 Cox, C. C. 66* .
59 *5 B. & S. 756; 10 Cox, C. C. 15; 34 L. J. (M.C.) 10* .
60 *1 Ex. D. 320; 45 L. J. (M.C.) 111* .
61 *28 L. J. (M.C.) 86; 8 Cox, C. C. 124; 5 Jur. (N.S.) 228* .
62 *40 L. J. (M.C.) 128; Law Rep. 1 C. C. R. 320* .
63 *5 Q. B. 493; 13 L. J. (M.C.) 58; 1 New Sess. Cas. 27* .

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64 *5 Q. B. 493; 13 L. J. (M.C.) 58; 1 New Sess. Cas. 27 .*

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