

statute expressly giving them cognizance, they have no power judicially to determine any matter of complaint: it is only an Act of Parliament can dispense with the common method of proceeding against offenders by indictment and trial *before a jury*. The particular statute, then, under which a Magistrate may be called upon to act being the source from which his power is derived, should be examined and its provisions strictly pursued, (a) especially as respects the person before whom—within what time and in what locality—the complaint should be laid.

The Acts for summary conviction commonly give jurisdiction to Justices of the Peace generally, which implies an equal power to all *within the limits of their respective commissions*; but jurisdiction in any particular case attaches to the first set of Magistrates, *duly authorized*, who have possession and cognizance of the fact, to the exclusion of the *separate jurisdiction* of all others. (b) But note, that jurisdiction is sometimes qualified in respect to the *number* or the *description* of Justices to whom it is committed, and when so qualified must be exercised in conformity with the particular enactment, or the proceeding will be void. (c) Thus, where authority to convict is given to two it cannot be executed by one Justice, they must be together to *hear and determine* the case; (d) and if an Act *points out* the Justice or Justices before whom the complaint to ground a conviction is to be made, its directions should be followed. (e) For example, where a statute gives jurisdiction to the *next Justice*, none other has authority, (f) but if it be to Justices *in or near* the place it is not *compulsory*, and the information may be laid before any Magistrate for the County. (g)

Note also a further restriction on the exercise of a Magistrate's authority. Justices of the Peace are not permitted to sit in judgment upon, or take any part in, any proceeding in which they are directly or indirectly interested. (h) An order of Sessions was quashed when a Magistrate who was interested in the result sat with the other Magistrates, *though he withdrew* before the decision was given. (i)

In every proceeding for summary conviction there is a limitation in point of *time* to the Magistrate's authority; it is generally prescribed in the statute which directs the proceeding. This period has

reference either to the time of laying the information or the time of conviction. In most of the recent statutes the period for commencing the prosecution is within three months after the act complained of was committed, but the particular Act under which the information is founded should be consulted, and if no time is specially limited therein, information must be laid within six months. (j)

The terms used in the statutes are thus construed by the Courts. If the time limited is "within one (or more) months," without expressing that they shall be *calendar months*, the limitation must be computed according to the *lunar month* of *twenty-eight days*. If *twelve months* (in the plural number) be the limit, it means *forty-eight weeks*; but if the expression is a *twelvemonth* (in the singular number) or some *part* of a year—as, *a half*, or, *a quarter* of a year—it means a whole *calendar year*, or *calendar months* of twelve to the year; and when the computation is to be made from *an act done*, the day when such *act* was done is inclusive, and to be reckoned as one. (k) Where the words are that the offence shall be prosecuted, or that the party shall be prosecuted for the offence within, &c., or equivalent expressions are used, it is sufficient to lay the *complaint* within the time stated, although the *conviction* may not take place till the period has expired. (l)

If a statute, however, directs that the offender shall be convicted, or that the conviction shall be made within a limited time, the *conviction* must take place within that time, and the laying the *information* merely within the period will not suffice, (m) and it makes no difference that an adjournment, at the request of the defendant himself, caused the conviction to be delayed beyond the time limited. If the time for making the conviction has expired, there is no longer any authority to convict. (n)

A Magistrate has no coercive power out of the limits of the county to which his commission extends. (o) As a general rule, every complaint must be made to a Justice of the county in which the offence has been committed and the parties are living, and this at the time of the commission thereof, otherwise he will have no authority to convict summarily on matters brought before him. (p) But to this rule there are exceptions—for example, certain Acts give special jurisdiction as well to Magistrates of the county in which the offence is committed as of that in which the defendant *resides* or is *apprehended*. And by the Act 4th and 5th Vic.

(a) Paley on Conv. 1.

(b) R. v. Swainstary. 4 T. R. 456.

(c) Dalh. c. 6. 4 Co. 46.

(d) Billings vs. Prinn. 2 Bl. Rep. 1017. R. v. Howarth. 2 Bont. 610. 16 Vic. c.

178, secs. 11 and 25.

(e) Dalh. c. 6, sec. 8. R. v. Martin. 2 Q. B. 1037. R. vs. Morrice. 1 New Sess.

Ca. 593. R. v. The Justices of Hertfordshire, 1 New Mag. Ca. 256. R.

Peckless. 1 Q. B. 142.

(f) Saunders' case. 1 Saunders 263. Dalh. c. 6, s. 8. 2 Keb. 559. Doug. 666.

(g) 2 Keb. 559. 3 Keb. 333. 1 Saunders 263. Harg. ab. in. 9 P. L. 5. R. vs.

Stapleton. Cald. 502. R. vs. Loxdale. 1 Burr. 417.

(h) Dalh. c. 173. R. v. Guddridge. 5 B. & C. 459. R. v. Great Yarmouth. 6 B.

& C. 608. R. vs. The Cherttenham Commissioners, 1 Q. B. 467. R. vs.

McLayre. Tay. U. C. R. 21.

(i) R. vs. The Justices of Hertfordshire. 6 Q. B. 232.

(j) 16 Vic. c. 178, s. 10.

(k) R. vs. Bellamy. 1 B. & C. 500. R. vs. Adderly. Doug. 416. R. v. Good-

enough. 2 Ad. 1. 162. Lister vs. Garland. 15 Ves. 247. Castle vs.

Hardison. 3 T. R. 623. Burns' Justice Tit. Time. But see 12 Vic. c. 10.

(l) R. v. Barrett. 1 Salk. 283.

(m) Powell vs. Beaumfield. 1 Ca. & Mar. 9. R. v. Bellamy. 1 B. & C. 600.

(n) R. vs. Tolley. 3 East 467.

(o) 2 Hawk. c. 8, s. 41. Dalh. c. 6, s. 7.

(p) Dalh. c. 6. Sharp vs. Aspinall. 10 B. & C. 47.