appellant in this case falls within the description of "a person convicted of treason, felony or misdemeanor" before a court of Quarter Sessions, nor could the Superior Court "reverse, affirm or amend any judgment given on the indictment or inquisition on the trial." The whole scope of the act and the schedule attached seems to point to a different class of cases.

We do not understand that the affirmance of a justice's conviction at Quarter Sessions, and the consequent order, thereon that the conviction be enforced, brings the appellant within the statutable description of a person "convicted of a misdemeanor," nor that the affirmance of an appeal will fall within the 3rd section of ch. 112, already cited, of a "judgment given on the indictment or inquisition, on the trial whereof" the question reserved arose.

Sec. 4 directs that the judgment of the Superior Court shall be certified as directed to the clerk of the peace "who shall enter the same on the original record in proper form." This is where judgment has been given. Where it has not been given, the court below shall be directed to give judgment.

We think all the provisions and the whole language of the act tend to shew that appeals from justice's convictions do not fall within chapter 112.

Sec. 5 of ch. 114, already noticed, declares that appeals shall lie in Quarter Sessions from all convictions for offences against municipal by-laws. In the absence of express enactment it is not easy to see how every person charged or convicted of breaking some trifling market regulation can be held to fall within the description of "a person convicted of treason, felony or misdemeanor," if the conviction against which he appeals be affirmed at Quarter Sessions.

For these reasons we think there was no power to reserve this case.

If the conviction and proceeeings, even when affirmed by the Quarter Sessions, are defective in law, shewing an absence of any legal offence, there is a remedy, as in *Hespeler*, appellant, v. *Shaw*, respondent (16 U. C. R. 104).

The act of last session gives full power to the Quarter Sessions to hear the complaint on its merits, and to amend the conviction if the appellant be found guilty. An adoption of this course would render it unnecessary to reserve any question as to the conviction being good or bad on its face.

The appellant in this case seems to have been rather hardly dealt with. It is not possible to read the evidence without some feeling of surprise that justices of the peace have convicted him, and a jury afterwards affirmed their proceeding.

We are not prepared to hold that the matter of the appeal constitutes what the law calls an "indictable misdemeanor."

If the medical act of 1864 in terms declared that it should not be lawful for any person to do what the appellant is charged with doing, then, according to the authorities, it seems the doing of it would be indictable, even if the act prescribe a summary remedy. See Russell on Crimes, vol. 1, p. 86, *et sequ.* (Ed. of 1865); *Rex* v. *Gregory* (5 B. & Ad. 555).

Now the medical act has no such prohibition in terms. Sec. 32 enacts that "any person who shall wilfully and falsely pretend to be, or take or use any name," &c., "implying that he is registered under this act, shall, upon prosecution and conviction in any court of competent jurisdiction, forfeit and pay a penalty not exceeding $100, and every such penalty shall form part of the funds of the council," &c. No method is pointed out for prosecuting this claim.

Sec. 34 seems to be that on which this conviction proceeded—that any person wilfully, &c., pretending to be, or take, or use, the name or title of a physician, doctor, &c., or any name or title, &c., implying that he is registered under this act, shall, upon a summary conviction before any justice of the peace, &c., pay a sum not exceeding $50, and in default to be committed to gaol till the same be paid.*

COMMON LAW CHAMBERS.

(*Reported by* HENRY O'BRIEN, Esq., *Barrister-at-Law, Reporter in Practice Court and Chambers.*)

GLEASON v. GLEASON ET AL.

29 & 30 Vic. cap. 42, sec. 6—Several fi. fa. goods in sheriff's hands—Return of a subsequent before a prior writ.

A. and then B. placed writs of *fi. fa.* in the hands of a sheriff, against the goods of C. Notwithstanding that the goods were apparently exhausted, A. refused to withdraw his writ or take a return of *nulla bona*, whereby B. was prevented, by the operation of 29 & 30 Vic. cap. 42, sec. 6, from proceeding against lands; and the sheriff, feeling bound by that Act, declined to return the second writ as long as the first remained in his hands.

Under these circumstances an order was made on the application of B. directing the sheriff to return the second writ "*nulla bona.*"

Semble, that the first execution creditor should have notice of such an application.

Remarks upon the embarrassment resulting from the operation of the above statute.

[Chambers, June 1, 1867.]

A summons was obtained calling on the sheriff of the County of York to shew cause why an attachment should not issue against him for not returning the *fi. fa.* against goods in this cause.

It appeared that this writ was delivered to the sheriff on the 3rd of December last, at which time there was another *fi. fa.* against the goods of these defendants, at the suit of one Reed, in the sheriff's hands.

It was not a year since the first writ was given to the sheriff—both of these writs were therefore still in full force.

It was admitted that the defendants had no goods or chattels, and that Gleason, the second execution creditor, desired to have his writ returned "no goods," so that he might proceed by execution against the lands of the defendants.

The sheriff declined to return this second execution, because the 29 & 30 Vic. cap. 42, sec. 6, enacts that "No sheriff shall make any return of *nulla bona* either in whole or in part to any writ against goods, until the whole of the goods of the execution debtor in his county have been exhausted, and then such return shall be made only in the order of priority in which the writs have come into his hands"—and the first execution creditor refused to withdraw his writ from the sheriff's hands or to take a return of *nulla bona*, "as he believes by keeping it in force in the

* As the court held that the case had been improperly reserved, no judgment was given upon the questions raised. See *The Queen* v. *Clark*, L. R., 1 C. C. 54.