

might be contended that the cause of this is that legal gentlemen hold the positions of stipendiary magistrates, hence the appeal being taken away. Even if this were true I would not for one moment admit that the right of appeal should not exist. But it is not correct that "gentlemen of the robe" hold the positions of stipendiary magistrates. In fact in the municipalities the reverse is generally the case. By the 'Towns' Incorporation Act lawyers are appointed recorders, and these gentlemen frequently hold both offices, recorder and stipendiary magistrate, but not always. I have said if the case is tried before a stipendiary magistrate there is no appeal, but the reverse if the case is tried before two justices. Now suppose the case is tried before two magistrates, one of whom is a stipendiary and the other just an ordinary justice, then an appeal lies. Certainly it appears absurd on the face of it that if an information is heard before the stipendiary alone, no appeal, but if before the stipendiary sitting as an ordinary justice, but none the less a stipendiary, and another justice, then the party aggrieved has his appeal. Looking at this matter from a reasonable standpoint the position is absurd and the Act should be so amended that an appeal would lie in any case.

As matters stand now the prosecuting officer can lay his information before a favourable stipendiary, and on very weak evidence obtain a conviction, and the defendant is really without remedy. If any legal questions are to be taken advantage of, the defendant, at great expense, has to apply to a Judge of the Supreme Court for a writ of certiorari, and, assuming it is granted, by this time the prosecutor has found out, or possibly knew from the start, he had no right to a conviction, and does not oppose the same being quashed, the result of which is that while the defendant succeeds in quashing a conviction which should never have been entered against him, he does so at his own expense, the costs amounting to as much, if not more, than if he had paid the penalty in the first instance. This is not fair and is one-sided legislation of the worst kind. Amend the Act by giving appeal in all cases, and providing that costs shall abide the result of the case, opposed or unopposed, and fair play will be shown on both sides. As the law on the matter stands now great injustice can be, and often is, done to innocent parties who have not the necessary means to pay for expensive litigation to get their rights protected.

FAIR PLAY.