*s.v. Provorsum fulgor;* G. Wissowa, *Religion und Kultus der Römer* (1902) ; W. W. Fowler, *The Roman Festivals* (1899).

SUMMARY JURISDICTION. In the widest sense this phrase in English law includes the power asserted by courts of record to deal *breυi manu* with contempts of court without the interven­tion of a jury. Probably the power was originally exercisable only when the fact was notorious, *i.e.* done in presence of the court. But it haslong been exercised as to extracurial contempts (see Contempt of Court). The term is also applied to the special powers given by statute or rules to the High Court of Justice and to county courts for dealing with certain classes of causes or matters by methods more simple and expeditious than the ordinary procedure of an action (see Summons). But the phrase in modem times is applied almost exclusively to certain forms of jurisdiction exercised by justices of the peace out of general or quarter sessions, and without the assistance of a jury.

Ever since the creation of the office of *justice of the peace (,q.v.)* the tendency of English legislation has been to enable them to deal with minor offences without a jury. Legislation was necessary because, as Blackstone says, except in the case of contempts the common law is a stranger to trial without a jury, and because even -when an offence is created by statute the procedure for trying must be by indictment and trial before a jury, unless by the statute creating the offence or some other statute another mode of trial is provided. In one remarkable instance power is given by an act of r725 (12 Geo. I. c. 29, s. 4) to judges of the superior courts summarily to sentence to trans­portation (penal servitude) a solicitor practising after conviction of barratry, forgery or perjury (Stephen, *Dig. Crim. Law,* 6th ed., 113). In other words all the summary jurisdiction of justices of the peace is the creation of statute. The history of the gradual development of the summary jurisdiction of justices of the peace is stated in Stephen’s *Hist. Crim. Law,* vol. i. ch. 4. The result of legislation is that summary jurisdiction has been conferred by statutes and by-laws as to innumerable petty offences of a criminal or quasi-criminal character (most of which in French law would be described as *contraventions)*, ranging through every letter of the alphabet. the most important perhaps are those under the Army, Game, Highway, Licensing, Merchant Shipping, Post Office, Public Health, Revenue and Vagrancy Acts.

A court of summary jurisdiction is defined in the Inter­pretation Act 1889 as “ any justice or justices of the peace or other magistrate, by whatever name called, to whom jurisdiction is given by, or who is authorized to act under, the Summary Jurisdiction Acts, whether in England, Wales or Ireland, and whether acting under the Summary Jurisdiction Acts or any of them or any other act or by virtue of his commission or under the common law ” (52 & 53 Vict. c. 63, s. 13 [11]). This defini­tion does not apply to justices of the peace sitting to hold a preliminary inquiry as to indictable offences, or in the discharge of their quasi-administrative functions as licensing authority. The expression “ Summary Jurisdiction Acts ” means as to England and Wales the Summary Jurisdiction Acts of 1848 (11 & 12 Vict. c. 42) and 1879 (42 & 43 Vict. c. 49) and any act amending these acts or either of them. These acts define the procedure to be followed by justices in those cases in which they are empowered *by statute* to hear and determine civil or criminal cases without the intervention of a jury or the forms of an action or indictment at law or a suit in equity. Besides these two acts the procedure as to the exercise of summary jurisdiction is also regulated by acts of 1857 (20 & 21 Vict. c. 1, c. 43), 1884 (47 & 48 Vict. c. 43) and 1899 (62 & 63 Vict. c. 22), and by the Summary Jurisdiction Process Act 1881 (44 & 45 Vict. c. 24).

The act of 1848 repealed and consolidated the provisions of a large number of earlier acts. The act of 1857 provided a mode of appeal to the High Court by case stated as to questions of law raised in summary proceedings. The act of 1879 amended the procedure in many details with the view of uniformity, and enlarged the powers of justices to deal summarily with certain classes of offences ordinarily punishable on indictment. The act gives power to make rules regulating details of procedure. The rules now in force were made in 1886, but have since been amended in certain details. The act of 1884 swept away special forms of procedure contained in a large number of statutes, and substituted the procedure of the Summary Jurisdiction Acts. The act of 1899 added the obtaining of property by false pretences to the list of indictable offences which could *sub modo* be summarily dealt with. The statutes above mentioned form a kind of code as to procedure and to some extent also as to jurisdiction.

As already stated, to enable a justice to deal summarily with an offence, whether created by statute or by-law, some statutory authority must be shown. A very large number of petty offences (contraventions) have been created (e.g. poaching, minor forms of theft, malicious damage and assault), and are annually being created (1) by legislation, or (2) by the by-laws of corporations made under statutory authority, or (3) by departments of state acting under such authority. The two latter classes differ from the first in the necessity of proving by evidence the existence of the by-law or statutory rule, and if need be that it is *intra vires.*

In the case of offences which are primarily made punishable only on summary conviction, the accused, if the maximum punishment is imprisonment for over three months, can elect to be tried by a jury (act of 1879, s. 17).

In the case of offences which are primarily punishable only on indictment, power to convict summarily is given in the following cases :—

1. All indictable offences (except homicide) committed by children over seven and under twelve, if the court thinks it expedient and the parent or guardian docs not object (1879, s. 10).

2. All indictable offences (except homicide) committed by young persons of twelve and under sixteen, if the young person consents after being told of his right to be tried by a jury (1879, s. II; 1899, s. 2).

3. The indictable offences specified in sched. 1, col. 2 of the act of 1879 and in the act of 1899, if committed by adults, if they consent to summary' trial after being told of their right to be tried by a jury (1879, s. 12).

4. The indictable offences specified in sched. 1, col. 1 of the act of 1879 and the act of 1899, if committed by an adult who pleads guilty after due caution that if he does so he will be summarily convicted (1879, s. 13).

Adults cannot be summarily dealt with under 3 or 4 if the offence is punishable by law with penal servitude owing to previous convic­tion *or indictment* of the accused (1879, s. 14).

It will be observed that as to all the indictable offences falling under heads 1 to 4, the summary jurisdiction depends on the consent of the accused or a person having authority over him after receiving due information as to the right to go to a jury, and that the punish­ments on summary conviction in such cases are not those which could be imposed after conviction or indictment, but are limited as follows:—

Case I. Imprisonment for not more than one month or fine not exceeding 40s. and (or) whipping of male children (not more than six strokes with a birch) ; sending to an industrial school or reforma­tory.

Case 2. Imprisonment with or without hard labour for not more than three months or fine not exceeding £10 and (or) whipping of males (not more than twelve strokes with a birch); sending to an industrial school or reformatory.

Case 3. Imprisonment for not more than three months with or without hard labour or fine not exceeding £20.

Case 4. Imprisonment with or without hard labour for not over six months.

These limitations of punishment have had a potent effect in inducing culprits to avoid the greater risks involved in a jury trial.

Where the offence is indictable the accused is brought before the justices either on arrest without warrant or on warrant or summons under the Indictable Offences Act 1848. and the summary juris­diction procedure does not apply till the necessary option has been taken.

Where the offence is indictable only at the election of the accused the summary jurisdiction procedure applies until on being informed of his opt ion the accused elects for jury trial (act of 1879, s. 17).

In the case of an offence punishable on summary conviction the procedure is ordinarily as follows :—

Information, usually oral, is laid before one or more justices of the peace alleging the commission of the offence. An information must not state more than a single offence, but great latitude is given as to amending at the hearing any defects in the mode of stating an offence. Upon receipt of the information the justice may issue his summons for the attendance of the accused at a time and place named to answer the charge. It is usual to summon to a petty sessional court *(i.e.* two justices ora stipendiary magistrate, or, in the city of London, an alderman). The summons is usually served by a constable. If the accused does not attend in obedience to the summons, after proof of service the court may either issue a warrant for his arrest or may deal with the charge in his absence.