

ANNO NONO & DECIMO

VICTORIÆ REGINÆ.

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C A P. XXIV.

An Act for removing some Defects in the Administration of Criminal Justice. [26th *June* 1846.]

WHEREAS in certain Cases of Felony the Court is not empowered by Law to award Sentence of Transportation for a less Period than the Term of the Offender's Life or some long Term of Years, or Sentence of Imprisonment for any shorter Term than Two Years; but it is desirable that some such Offenders should suffer Transportation or Imprisonment for a shorter Period respectively, at the Discretion of the Court before which they are convicted: Now be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That in all Cases where the Court is now by Law empowered or required to award a Sentence of Transportation exceeding Seven Years it shall be lawful for such Court, at its Discretion, to award a Sentence of Transportation for a Term of Years not less than Seven Years, or to award such Sentence of Imprisonment for any Period not exceeding Two Years, with or without hard Labour, as shall to the Court in its Discretion appear just under all the Circumstances.

Power of Criminal Courts as to Terms of Transportation and Imprisonment.

II. And whereas it is now required by Law that no Indictment shall be presented before the Grand Jury of the Central Criminal Court for

Repeal of Provision in 4 & 5 W. 4. c. 36. as to

Indictments before Grand Jury of Central Criminal Court.

Indictments may now be preferred before the said Court.

for certain Offences unless the Party prosecuting shall have first entered into Recognizances to prosecute; be it enacted, That the said Provision be and the same is hereby repealed; and that Bills of Indictment may be preferred by any Person before the Grand Jury of the said Court for any Offence alleged to be committed within the Jurisdiction of the said Court in the same Manner as may be done before any other Grand Jury.

Writs for removing Indictments from Central Criminal Court to specify County, &c. in which same shall be tried.

III. And whereas Doubts have been raised as to the proper Place of Trial, where Indictments have been removed by Writ of Certiorari from the Central Criminal Court into the Court of Queen's Bench; be it enacted, That every Writ of Certiorari for removing an Indictment from the said Central Criminal Court shall specify the County or Jurisdiction in which the same shall be tried; and a Jury shall be summoned and the Trial proceed in the same Manner in all respects as if the Indictment had been originally preferred in that County or Jurisdiction.

Certificate of Recognizance filed to prosecute Writ of Error to be made out by the Clerk of the Crown, Master or Assistant Master on the Crown Side of the Court of Queen's Bench, and to be a sufficient Warrant for Defendant's Discharge.

IV. And whereas by an Act passed in the last Session of Parliament, intituled *An Act to stay Execution of Judgment for Misdemeanors upon giving Bail in Error*, it is (amongst other things) enacted, that the Clerk of the Crown in the Court of Queen's Bench shall, for the Purposes in the said Act mentioned, make out and deliver Certificates in Writing under his Hand of the due filing of Record in the said Court of any Recognizance given to prosecute any Writ of Error in the Manner in the said Act mentioned, and that any such Certificate, when duly verified by Affidavit, shall be a sufficient Warrant to every Gaoler or other Person having the Custody of such Defendant or Defendants in Execution of such Judgment to discharge him or them out of Custody, and also to every Person having in his Possession the whole or any Part of any Fine levied in Execution of any such Judgment to authorize and require the Repayment thereof to the Defendant or Defendants: And whereas the making of such Affidavit creates unnecessary Expence and Delay, and it is expedient to dispense with the same, and to make further Provision for the making and Delivery of such Certificates; be it therefore enacted, That any such Certificate as aforesaid under the Hand either of the said Clerk of the Crown or of the Master or Assistant Master on the Crown Side of the said Court, and sealed with the Seal of the Crown Office in the said Court, shall be a sufficient Warrant for the Discharge of any such Defendant or Defendants, and for the Repayment of any such Fine.

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