


ANNO TERTIO & QUARTO

# GULIELMI IV. REGIS.

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## CAP. XLII.

## An Act for the further Amendment of the Law, and the better Advancement of Justice.

[14th *August* 1833.]

WHEREAS it would greatly contribute to the diminishing of Expence in Suits in the Superior Courts of Common Law at *Westminster* if the Pleadings therein were in some respects altered, and the Questions to be tried by the Jury left less at large than they now are according to the Course and Practice of pleading in several Forms of Action; but this cannot be conveniently done otherwise than by Rules or Orders of the Judges of the said Courts from Time to Time to be made, and Doubts may arise as to the Power of the said Judges to make such Alterations without the Authority of Parliament: Be it therefore enacted by the King'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 the Judges of the said Superior Courts, or any Eight or more of them, of whom the Chiefs of each of the said Courts shall be Three, shall and may, by any Rule or Order to be from Time to Time by them made, in Term or Vacation, at any Time within Five Years from the Time when this Act shall take effect, make such Alterations in the Mode of pleading in the said Courts, and in the Mode of entering and transcribing Pleadings, Judgments, and other Proceedings in Actions at Law, and such Regulations as to the Payment of Costs, and otherwise for carrying into effect the said Alterations, as to them may seem expedient; and all such Rules, Orders, or Regulations shall be laid

Judges to have Power to make Alterations in the Mode of pleading in the Superior Courts, &c.



before

before both Houses of Parliament, if Parliament be then sitting, immediately upon the making of the same, or if Parliament be not sitting, then within Five Days after the next Meeting thereof, and no such Rule, Order, or Regulation shall have Effect until Six Weeks after the same shall have been so laid before both Houses of Parliament; and any Rule or Order so made shall, from and after such Time aforesaid, be binding and obligatory on the said Courts, and all other Courts of Common Law, and on all Courts of Error into which the Judgments of the said Courts or any of them shall be carried by any Writ of Error, and be of the like Force and Effect as if the Provisions contained therein had been expressly enacted by Parliament: Provided always, that no such Rule or Order shall have the Effect of depriving any Person of the Power of pleading the General Issue, and giving the special Matter in Evidence, in any Case wherein he is now or hereafter shall be entitled to do so by virtue of any Act of Parliament now or hereafter to be in force.

Not to deprive any Person of the Power of pleading the General Issue.

Executors may bring Actions for Injuries to the Real Estates of the Deceased;

II. And whereas there is no Remedy provided by Law for Injuries to the Real Estate of any Person deceased, committed in his Lifetime, nor for certain Wrongs done by a Person deceased in his Lifetime to another in respect of his Property, Real or Personal; for Remedy thereof be it enacted, That an Action of Trespass, or Trespass on the Case, as the Case may be, may be maintained by the Executors or Administrators of any Person deceased for any Injury to the Real Estate of such Person, committed in his Lifetime, for which an Action might have been maintained by such Person, so as such Injury shall have been committed within Six Calendar Months before the Death of such deceased Person, and provided such Action shall be brought within One Year after the Death of such Person; and the Damages, when recovered, shall be Part of the Personal Estate of such Person; and further, that an Action of Trespass, or Trespass on the Case, as the Case may be, may be maintained against the Executors or Administrators of any Person deceased for any Wrong committed by him in his Lifetime to another in respect of his Property, Real or Personal, so as such Injury shall have been committed within Six Calendar Months before such Person's Death, and so as such Action shall be brought within Six Calendar Months after such Executors or Administrators shall have taken upon themselves the Administration of the Estate and Effects of such Person; and the Damages to be recovered in such Action shall be payable in like Order of Administration as the Simple Contract Debts of such Person.

and Actions may be brought against Executors for an Injury to Property, Real or Personal, by their Testator.

Limitation of Action of Debt on Specialties, &c.

III. And be it further enacted, That all Actions of Debt for Rent upon an Indenture of Demise, all Actions of Covenant or Debt upon any Bond or other Specialty, and all Actions of Debt or Scire facias upon any Recognizance, and also all Actions of Debt upon any Award where the Submission is not by Specialty, or for any Fine due in respect of any Copyhold Estates, or for an Escape, or for Money levied on any Fieri facias, and all Actions for Penalties, Damages, or Sums of Money given to the Party grieved, by any Statute now or hereafter to be in force, that shall be sued or brought at any Time after the End of the present Session of Parliament, shall

be commenced and sued within the Time and Limitation herein-after expressed, and not after; that is to say, the said Actions of Debt for Rent upon an Indenture of Demise, or Covenant or Debt upon any Bond or other Specialty, Actions of Debt or Scire facias upon Recognizance, within Ten Years after the End of this present Session, or within Twenty Years after the Cause of such Actions or Suits, but not after; the said Actions by the Party grieved, One Year after the End of this present Session, or within Two Years after the Cause of such Actions or Suits, but not after; and the said other Actions within Three Years after the End of this present Session, or within Six Years after the Cause of such Actions or Suits, but not after; provided that nothing herein contained shall extend to any Action given by any Statute where the Time for bringing such Action is or shall be by any Statute specially limited.

Remedy for Infants, Femes Covert, &c.

IV. And be it further enacted, That if any Person or Persons that is or are or shall be entitled to any such Action or Suit, or to such Scire facias, is or are or shall be, at the Time of any such Cause of Action accrued, within the Age of Twenty-one Years, Feme Covert, Non compos mentis, or beyond the Seas, then such Person or Persons shall be at liberty to bring the same Actions, so as they commence the same within such Times after their coming to or being of full Age, discovert, of sound Memory, or returned from beyond the Seas, as other Persons having no such Impediment should, according to the Provisions of this Act, have done; and that if any Person or Persons against whom there shall be any such Cause of Action is or are, or shall be at the Time such Cause of Action accrued, beyond the Seas, then the Person or Persons entitled to any such Cause of Action shall be at liberty to bring the same against such Person or Persons within such Times as are before limited after the Return of such Person or Persons from beyond the Seas.

Absence of Defendants beyond Seas provided for.

Proviso in case of Acknowledgment in Writing, or by Part Payment.

V. Provided always, That if any Acknowledgment shall have been made, either by Writing signed by the Party liable by virtue of such Indenture, Specialty, or Recognizance, or his Agent, or by Part Payment or Part Satisfaction on account of any Principal or Interest being then due thereon, it shall and may be lawful for the Person or Persons entitled to such Actions to bring his or their Action for the Money remaining unpaid and so acknowledged to be due within Twenty Years after such Acknowledgment by Writing or Part Payment or Part Satisfaction as aforesaid, or in case the Person or Persons entitled to such Action shall at the Time of such Acknowledgment be under such Disability as aforesaid, or the Party making such Acknowledgment be, at the Time of making the same, beyond the Seas, then within Twenty Years after such Disability shall have ceased as aforesaid, or the Party shall have returned from beyond Seas, as the Case may be; and the Plaintiff or Plaintiffs in any such Action, or any Indenture, Specialty, or Recognizance, may, by way of Replication, state such Acknowledgment, and that such Action was brought within the Time aforesaid, in answer to a Plea of this Statute.

The Limitation after Judgment or

VI. And nevertheless be it enacted, if in any of the said Actions Judgment be given for the Plaintiff, and the same be reversed by Error,

Outlawry reversed.

Error, or a Verdict pass for the Plaintiff, and upon Matter alleged in Arrest of Judgment the Judgment be given against the Plaintiff, that he take nothing by his Plaint, Writ, or Bill, or if in any of the said Actions the Defendant shall be outlawed, and shall after reverse the Outlawry, That in all such Cases the Party Plaintiff, his Executors or Administrators, as the Case shall require, may commence a new Action or Suit from Time to Time within a Year after such Judgment reversed, or such Judgment given against the Plaintiff, or Outlawry reversed, and not after.

No Part of the United Kingdom, &c. to be deemed beyond the Seas within the Meaning of this Act.

VII. And be it further enacted, That no Part of the United Kingdom of *Great Britain* and *Ireland*, nor the Islands of *Man*, *Guernsey*, *Jersey*, *Alderney*, and *Sark*, nor any Islands adjacent to any of them, being Part of the Dominions of His Majesty, shall be deemed to be beyond the Seas within the Meaning of this Act, or of the Act passed in the Twenty-first Year of the Reign of King *James* the First, intituled *An Act for Limitation of Actions, and for avoiding of Suits in Law.*

Restriction as to Plea in Abatement for Non-joinder of a Co-defendant.

VIII. And be it further enacted, That no Plea in Abatement for the Nonjoinder of any Person as a Co-defendant shall be allowed in any Court of Common Law unless it shall be stated in such Plea that such Person is resident within the Jurisdiction of the Court, and unless the Place of Residence of such Person shall be stated with convenient Certainty in an Affidavit verifying such Plea.

Reply of Plaintiff to Plea in Abatement of Non-joinder.

IX. And be it further enacted, That to any Plea in Abatement in any Court of Law of the Nonjoinder of another Person, the Plaintiff may reply that such Person has been discharged by Bankruptcy and Certificate, or under an Act for the Relief of Insolvent Debtors.

Provision in the Case of subsequent Proceedings against the Persons named in a Plea in Abatement.

X. And be it further enacted, That in all Cases in which after such Plea in Abatement the Plaintiff shall, without having proceeded to Trial upon an Issue thereon, commence another Action against the Defendant or Defendants in the Action in which such Plea in Abatement shall have been pleaded, and the Person or Persons named in such Plea in Abatement as joint Contractors, if it shall appear by the Pleadings in such subsequent Action, or on the Evidence at the Trial thereof, that all the original Defendants are liable, but that One or more of the Persons named in such Plea in Abatement or any subsequent Plea in Abatement are not liable as a contracting Party or Parties, the Plaintiff shall nevertheless be entitled to Judgment, or to a Verdict and Judgment, as the Case may be, against the other Defendant or Defendants who shall appear to be liable; and every Defendant who is not so liable shall have Judgment, and shall be entitled to his Costs as against the Plaintiff, who shall be allowed the same as Costs in the Cause against the Defendant or Defendants who shall have so pleaded in Abatement the Nonjoinder of such Person; provided that any such Defendant who shall have so pleaded in Abatement shall be at liberty on the Trial to adduce Evidence of the Liability of the Defendants named by him in such Plea in Abatement.

XI. And

XI. And be it further enacted, That no Plea in Abatement for a Misnomer shall be allowed in any Personal Action, but that in all Cases in which a Misnomer would but for this Act have been by Law pleadable in Abatement in such Actions, the Defendant shall be at liberty to cause the Declaration to be amended, at the Costs of the Plaintiff, by inserting the right Name, upon a Judge's Summons founded on an Affidavit of the right Name; and in case such Summons shall be discharged, the Costs of such Application shall be paid by the Party applying, if the Judge shall think fit. Misnomer not to be pleaded in Abatement.

XII. And be it further enacted, That in all Actions upon Bills of Exchange or Promissory Notes, or other written Instruments, any of the Parties to which are designated by the initial Letter or Letters or some Contraction of the Christian or first Name or Names, it shall be sufficient in every Affidavit to hold to Bail, and in the Process or Declaration, to designate such Persons by the same initial Letter or Letters or Contraction of the Christian or first Name or Names, instead of stating the Christian or first Name or Names in full. Initials of Names may be used in some Cases.

XIII. And be it further enacted, That no Wager of Law shall be hereafter allowed. Wager of Law to be abolished.

XIV. And be it further enacted, That an Action of Debt on Simple Contract shall be maintainable in any Court of Common Law against any Executor or Administrator. Action of Debt on Simple Contract.

XV. And whereas it is expedient to lessen the Expence of the Proof of written or printed Documents, or Copies thereof, on the Trial of Causes; be it further enacted, That it shall and may be lawful for the said Judges, or any such Eight or more of them as aforesaid, at any Time within Five Years after this Act shall take effect, to make Regulations by general Rules or Orders, from Time to Time, in Term or in Vacation, touching the voluntary Admission, upon an Application for that Purpose at a reasonable Time before the Trial, of one Party to the other of all such written or printed Documents or Copies of Documents as are intended to be offered in Evidence on the said Trial by the Party requiring such Admission, and touching the Inspection thereof before such Admission is made, and touching the Costs which may be incurred by the Proof of such Documents or Copies on the Trial of the Cause in case of the omitting to apply for such Admission, or the not producing of such Document or Copies for the Purpose of obtaining Admission thereof, or of the Refusal to make such Admission, as the Case may be, and as to the said Judges shall seem meet; and all such Rules and Orders shall be binding and obligatory in all Courts of Common Law, and of the like Force as if the Provisions therein contained had been expressly enacted by Parliament. Power to the Judges to make Regulations as to the Admission of written Documents.

XVI. And whereas it would also lessen the Expence of Trials and prevent Delay if such Writs of Inquiry as herein-after mentioned were executed, and such Issues as herein-after mentioned were tried, before the Sheriff of the County where the Venue is laid; be it therefore Writs of Inquiry under the Statute 8 & 9 Will. 3. c. 11. to be ex-

ecuted before the Sheriff, unless otherwise ordered.

therefore enacted, That all Writs issued under and by virtue of the Statute passed in the Session of Parliament held in the Eighth and Ninth Years of the Reign of King *William* the Third, intituled *An Act for the better preventing frivolous and vexatious Suits*, shall, unless the Court where such Action is pending, or a Judge of one of the said Superior Courts, shall otherwise order, direct the Sheriff of the County where the Action shall be brought to summon a Jury to appear before such Sheriff, instead of the Justices or Justice of Assize or Nisi Prius of that County, to inquire of the Truth of the Breaches suggested, and assess the Damages that the Plaintiff shall have sustained thereby, and shall command the said Sheriff to make Return thereof to the Court from whence the same shall issue at a Day certain, in Term or in Vacation, in such Writ to be mentioned; and such Proceedings shall be had after the Return of such Writ as are in the said Statute in that Behalf mentioned, in like Manner as if such Writ had been executed before a Justice of Assize or Nisi Prius.

Power to direct Issues joined in certain Actions to be tried before the Sheriff or any Judge.

XVII. And be it further enacted, That in any Action depending in any of the said Superior Courts for any Debt or Demand in which the Sum sought to be recovered, and endorsed on the Writ of Summons, shall not exceed Twenty Pounds, it shall be lawful for the Court in which such Suit shall be depending, or any Judge of any of the said Courts, if such Court or Judge shall be satisfied that the Trial will not involve any difficult Question of Fact or Law, and such Court or Judge shall think fit so to do, to order and direct that the Issue or Issues joined shall be tried before the Sheriff of the County where the Action is brought, or any Judge of any Court of Record for the Recovery of Debt in such County, and for that Purpose a Writ shall issue directed to such Sheriff, commanding him to try such Issue or Issues, by a Jury to be summoned by him, and to return such Writ with the Finding of the Jury thereon indorsed, at a Day certain, in Term or in Vacation, to be named in such Writ; and thereupon such Sheriff or Judge shall summon a Jury, and shall proceed to try such Issue or Issues.

Upon the Return of a Writ of Inquiry or a Trial of Issues, Judgment to be signed, unless, &c.

XVIII. And be it further enacted, That at the Return of any such Writ of Inquiry, or Writ for the Trial of such Issue or Issues as aforesaid, Costs shall be taxed, Judgment signed, and Execution issued forthwith, unless the Sheriff or his Deputy before whom such Writ of Inquiry may be executed, or such Sheriff, Deputy, or Judge before whom such Trial shall be had, shall certify under his Hand upon such Writ that Judgment ought not to be signed until the Defendant shall have had an Opportunity to apply to the Court for a new Inquiry or Trial, or a Judge of any of the said Courts shall think fit to order that Judgment or Execution shall be stayed till a Day to be named in such Order; and the Verdict of such Jury on the Trial of such Issue or Issues shall be as valid and of the like Force as a Verdict of a Jury at Nisi Prius; and the Sheriff or his Deputy, or Judge, presiding at the Trial of such Issue or Issues, shall have the like Powers with respect to Amendment on such Trial as are herein-after given to Judges at Nisi Prius.

Sheriff, as to such Issues, to have the like Powers as Judges at Nisi Prius.



XIX. Pro-

Provisions of 1 W. 4. c. 7. to extend to such Writs of Inquiry and Issues.

XIX. Provided also, That all and every the Provisions contained in the Statute made and passed in the First Year of the Reign of His present Majesty, intituled *An Act for the more speedy Judgment and Execution in Actions brought in His Majesty's Courts of Law at* Westminster, *and in the Court of Common Pleas of the County Palatine of* Lancaster, *and for amending the Law as to Judgment on a Cognovit actionem in Cases of Bankruptcy*, shall, so far as the same are applicable thereto, be extended and applied to Judgments and Executions upon such Writs of Inquiry and Writs for the Trials of Issues, in like Manner as if the same were expressly re-enacted herein.

Sheriffs to name Deputies to be resident in London.

XX. And be it further enacted, That from and after the First Day of *June* One thousand eight hundred and thirty-three the Sheriff of each County in *England* and *Wales* shall severally name a sufficient Deputy, who shall be resident or have an Office within One Mile from the *Inner Temple Hall*, for the Receipt of Writs, granting Warrants thereon, making Returns thereto, and accepting of all Rules and Orders to be made on or touching the Execution of any Process or Writ to be directed to such Sheriff.

Defendant to be allowed to pay Money into Court in certain Actions by Judge's Order.

XXI. And be it further enacted, That it shall be lawful for the Defendant in all Personal Actions, (except Actions for Assault and Battery, false Imprisonment, Libel, Slander, malicious Arrest or Prosecution, Criminal Conversation or debauching of the Plaintiff's Daughter or Servant,) by Leave of any of the said Superior Courts where such Action is pending, or a Judge of any of the said Superior Courts, to pay into Court a Sum of Money by way of Compensation or Amends, in such Manner and under such Regulations as to the Payment of Costs and the Form of Pleading as the said Judges, or such Eight or more of them as aforesaid, shall, by any Rules or Orders by them to be from Time to Time made, order and direct.

Power to direct local Actions to be tried in any County.

XXII. And whereas unnecessary Delay and Expence is sometimes occasioned by the Trial of local Actions in the County where the Cause of Action has arisen; be it therefore enacted, That in any Action depending in any of the said Superior Courts, the Venue in which is by Law local, the Court in which such Action shall be depending, or any Judge of any of the said Courts, may, on the Application of either Party, order the Issue to be tried, or Writ of Inquiry to be executed, in any other County or Place than that in which the Venue is laid; and for that Purpose any such Court or Judge may order a Suggestion to be entered on the Record, that the Trial may be more conveniently had, or Writ of Inquiry executed, in the County or Place where the same is ordered to take place.

Allowing Amendments to be made on the Record in certain Cases.

XXIII. And whereas great Expence is often incurred, and Delay or Failure of Justice takes place, at Trials, by reason of Vacancies as to some Particular or Particulars between the Proof and the Record or setting forth, on the Record or Document on which the Trial is had, of Contracts, Customs, Prescriptions, Names, and other Matters or Circumstances not material to the Merits of the Case, and by the Mis-statement

Mis-statement of which the opposite Party cannot have been prejudiced, and the same cannot in any Case be amended at the Trial, except where the Variance is between any Matter in Writing or in Print produced in Evidence and the Record: And whereas it is expedient to allow such Amendments as herein-after mentioned to be made on the Trial of the Cause; be it therefore enacted, That it shall be lawful for any Court of Record, holding Plea in Civil Actions, and any Judge sitting at Nisi Prius, if such Court or Judge shall see fit so to do, to cause the Record, Writ, or Document on which any Trial may be pending before any such Court or Judge, in any Civil Action, or in any Information in the Nature of a Quo warranto, or Proceedings on a Mandamus, when any Variance shall appear between the Proof and the Recital or setting forth, on the Record, Writ, or Document on which the Trial is proceeding, of any Contract, Custom, Prescription, Name, or other Matter, in any Particular or Particulars in the Judgment of such Court or Judge not material to the Merits of the Case, and by which the opposite Party cannot have been prejudiced in the Conduct of his Action, Prosecution, or Defence, to be forthwith amended by some Officer of the Court or otherwise, both in the Part of the Pleadings where such Variance occurs, and in every other Part of the Pleadings which it may become necessary to amend, on such Terms as to Payment of Costs to the other Party, or postponing the Trial to be had before the same or another Jury, or both Payment of Costs and Postponement, as such Court or Judge shall think reasonable; and in case such Variance shall be in some Particular or Particulars in the Judgment of such Court or Judge not material to the Merits of the Case, but such as that the opposite Party may have been prejudiced thereby in the Conduct of his Action, Prosecution, or Defence, then such Court or Judge shall have Power to cause the same to be amended upon Payment of Costs to the other Party, and withdrawing the Record or postponing the Trial as aforesaid, as such Court or Judge shall think reasonable; and after any such Amendment the Trial shall proceed, in case the same shall be proceeded with, in the same Manner in all respects, both with respect to the Liability of Witnesses to be indicted for Perjury, and otherwise, as if no such Variance had appeared; and in case such Trial shall be had at Nisi Prius or by virtue of such Writ as aforesaid, the Order for the Amendment shall be indorsed on the Postea or the Writ, as the Case may be, and returned together with the Record or Writ, and thereupon such Papers, Rolls, and other Records of the Court from which such Record or Writ issued, as it may be necessary to amend, shall be amended accordingly; and in case the Trial shall be had in any Court of Record, then the Order for Amendment shall be entered on the Roll or other Document upon which the Trial shall be had; provided that it shall be lawful for any Party who is dissatisfied with the Decision of such Judge at Nisi Prius, Sheriff, or other Officer, respecting his Allowance of any such Amendment, to apply to the Court from which such Record or Writ issued for a new Trial upon that Ground, and in case any such Court shall think such Amendment improper, a new Trial shall be granted accordingly, on such Terms as the Court shall think fit, or the Court shall make such other Order as to them may seem meet.

XXIV. And

Power for the Court or Judge to direct the Facts to be found specially.

XXIV. And be it further enacted, That the said Court or Judge shall and may, if they or he think fit, in all such Cases of Variance, instead of causing the Record or Document to be amended as aforesaid, direct the Jury to find the Fact or Facts according to the Evidence, and thereupon such Finding shall be stated on such Record or Document, and, notwithstanding the Finding on the Issue joined, the said Court or the Court from which the Record has issued shall, if they shall think the said Variance immaterial to the Merits of the Case, and the Mis-statement such as could not have prejudiced the opposite Party in the Conduct of the Action or Defence, give Judgment according to the very Right and Justice of the Case.

Power to state a special Case without proceeding to Trial.

XXV. And be it further enacted, That it shall be lawful for the Parties in any Action or Information, after Issue joined, by Consent and by Order of any of the Judges of the said Superior Courts, to state the Facts of the Case, in the Form of a special Case, for the Opinion of the Court, and to agree that a Judgment shall be entered for the Plaintiff or Defendant, by Confession or of Nolle prosequi, immediately after the Decision of the Case, or otherwise as the Court may think fit; and Judgment shall be entered accordingly.

Witnesses interested solely on account of the Verdict to be admissible.

XXVI. And in order to render the Rejection of Witnesses on the Ground of Interest less frequent, be it further enacted, That if any Witness shall be objected to as incompetent on the Ground that the Verdict or Judgment in the Action on which it shall be proposed to examine him would be admissible in Evidence for or against him, such Witness shall nevertheless be examined, but in that Case a Verdict or Judgment in that Action in favour of the Party on whose Behalf he shall have been examined shall not be admissible in Evidence for him or any one claiming under him, nor shall a Verdict or Judgment against the Party on whose Behalf he shall have been examined be admissible in Evidence against him or any one claiming under him.

Direction to indorse the Name of the Witness on the Record.

XXVII. And be it further enacted, That the Name of every Witness objected to as incompetent on the Ground that such Verdict or Judgment would be admissible in Evidence for or against him shall at the Trial be indorsed on the Record or Document on which the Trial shall be had, together with the Name of the Party on whose Behalf he was examined, by some Officer of the Court, at the Request of either Party, and shall be afterwards entered on the Record of the Judgment; and such Indorsement or Entry shall be sufficient Evidence that such Witness was examined in any subsequent Proceeding in which the Verdict or Judgment shall be offered in Evidence.

Jury empowered to allow Interest upon Debts.

XXVIII. And be it further enacted, That upon all Debts or Sums certain, payable at a certain Time or otherwise, the Jury on the Trial of any Issue, or on any Inquisition of Damages, may, if they shall think fit, allow Interest to the Creditor at a Rate not exceeding the current Rate of Interest from the Time when such Debts or Sums certain were payable, if such Debts or Sums be payable by virtue of some written Instrument at a certain Time, or if payable otherwise, then

then from the Time when Demand of Payment shall have been made in Writing, so as such Demand shall give Notice to the Debtor that Interest will be claimed from the Date of such Demand until the Term of Payment; provided that Interest shall be payable in all Cases in which it is now payable by Law.

In certain Actions the Jury may give Damages in the Nature of Interest.

XXIX. And be it further enacted, That the Jury on the Trial of any Issue, or on any Inquisition of Damages, may, if they shall think fit, give Damages in the Nature of Interest, over and above the Value of the Goods at the Time of the Conversion or Seizure, in all Actions of Trover or Trespass de bonis asportatis, and over and above the Money recoverable in all Actions on Policies of Assurance made after the passing of this Act.

Interest to be allowed on all Writs of Error for the Time that Execution has been delayed.

XXX. And be it further enacted, That if any Person shall sue out any Writ of Error upon any Judgment whatsoever given in any Court in any Action personal, and the Court of Error shall give Judgment for the Defendant thereon, then Interest shall be allowed by the Court of Error for such Time as Execution has been delayed by such Writ of Error, for the delaying thereof.

Executors suing in right of the Testator to pay Costs.

XXXI. And be it further enacted, That in every Action brought by any Executor or Administrator in right of the Testator or Intestate, such Executor or Administrator shall, unless the Court in which such Action is brought, or a Judge of any of the said Superior Courts, shall otherwise order, be liable to pay Costs to the Defendant in case of being nonsuited or a Verdict passing against the Plaintiff, and in all other Cases in which he would be liable if such Plaintiff were suing in his own Right upon a Cause of Action accruing to himself; and the Defendant shall have Judgment for such Costs, and they shall be recovered in like Manner.

One or more of several Defendants in any Action having a Nolle prosequi or a Verdict shall have Costs.

XXXII. And be it further enacted, That where several Persons shall be made Defendants in any Personal Action, and any One or more of them shall have a Nolle prosequi entered as to him or them, or upon the Trial of such Action shall have a Verdict pass for him or them, every such Person shall have Judgment for and recover his reasonable Costs, unless, in the Case of a Trial, the Judge before whom such Cause shall be tried shall certify upon the Record, under his Hand, that there was a reasonable Cause for making such Person a Defendant in such Action.

Where Nolle prosequi entered upon any Count, &c.

XXXIII. And be it further enacted, That where any Nolle prosequi shall have been entered upon any Count, or as to Part of any Declaration, the Defendant shall be entitled to, and have Judgment for, and recover his reasonable Costs in that Behalf.

Plaintiff in Scire facias, and Plaintiff or Defendant on Demurrer, to have Costs.

XXXIV. And be it further enacted, That in all Writs of Scire facias the Plaintiff obtaining Judgment on an Award of Execution shall recover his Costs of Suit upon a Judgment by Default as well as upon a Judgment after Plea pleaded or Demurrer joined; and that where Judgment shall be given either for or against a Plaintiff or Demandant,

Demandant, or for or against a Defendant or Tenant, upon any Demurrer joined in any Action whatever, the Party in whose Favour such Judgment shall be given shall also have Judgment to recover his Costs in that Behalf.

Costs of Special Juries in case of a Nonsuit. 6 G. 4. c. 50.

XXXV. And whereas it is provided in and by a Statute passed in the Sixth Year of the Reign of His late Majesty, intituled *An Act for consolidating and amending the Law relative to Jurors and Juries*, that the Person or Party who shall apply for a Special Jury shall pay the Fees for striking such Jury, and all the Expences occasioned by the Trial of the Cause by the same, and shall not have any further or other Allowance for the same, upon Taxation of Costs, than such Person or Party would be entitled unto in case the Cause had been tried by a common Jury, unless the Judge before whom the Cause is tried shall, immediately after the Verdict, certify under his Hand, upon the Back of the Record, that the same was a Cause proper to be tried by a Special Jury: And whereas the said Provision does not apply to Cases in which the Plaintiff has been nonsuited, and it is expedient that the Judge should have such Power of certifying as well when a Plaintiff is nonsuited as when he has a Verdict against him; be it therefore enacted, That the said Provision of the said last-mentioned Act of Parliament, and every thing therein contained, shall apply to Cases in which the Plaintiff shall be nonsuited as well as to Cases in which a Verdict shall pass against him.

Power to make Regulations as to the Officers of each Court at Westminster taxing Costs.

XXXVI. And whereas it would tend to the better Dispatch of Business, and would be more convenient, and better assimilate the Practice and promote Uniformity in the Allowance of Costs, if the Officers on the Plea Side of the Courts of King's Bench and Exchequer, and the Officers of the Court of Common Pleas at *Westminster*, who now perform the Duties of taxing Costs, were to be empowered to tax Costs which have arisen or may arise in each of the said Courts indiscriminately; be it therefore enacted, That it shall be lawful for the Judges of the said Courts, or such Eight or more of them as aforesaid, by any Rule or Order to be from Time to Time made, in Term or Vacation, to make such Regulations for the Taxation of Costs by any of the said Officers of the said Courts indiscriminately as to them may seem expedient, although such Costs may not have arisen in respect of Business done in the Court to which such Officer belongs, and to appoint some convenient Place in which the Business of Taxation shall be transacted for all the said Courts, and to alter the same when and as it may seem to them expedient.

Executors of Lessor may distrain for Arrears in his Lifetime.

XXXVII. And be it further enacted, That it shall be lawful for the Executors or Administrators of any Lessor or Landord to distrain upon the Lands demised for any Term, or at Will, for the Arrearages of Rent due to such Lessor or Landlord in his Lifetime, in like Manner as such Lessor or Landlord might have done in his Lifetime.

Arrears may be distrained for within

XXXVIII. And be it further enacted, That such Arrearages may be distrained for after the End or Determination of such Term or Lease, at Will,

Six Months after Determination of Term.

Will, in the same Manner as if such Term or Lease had not been ended or determined; provided that such Distress be made within the Space of Six Calendar Months after the Determination of such Term or Lease, and during the Continuance of the Possession of the Tenant from whom such Arrears became due: Provided also, that all and every the Powers and Provisions in the several Statutes made relating to Distresses for Rent shall be applicable to the Distresses so made as aforesaid.

Submission to Arbitration by Rule of Court, &c. not to be revocable without Leave of the Court.

XXXIX. And whereas it is expedient to render References to Arbitration more effectual; be it further enacted, That the Power and Authority of any Arbitrator or Umpire appointed by or in pursuance of any Rule of Court, or Judge's Order, or Order of Nisi Prius, in any Action now brought or which shall be hereafter brought, or by or in pursuance of any Submission to Reference containing an Agreement that such Submission shall be made a Rule of any of His Majesty's Courts of Record, shall not be revocable by any Party to such Reference without the Leave of the Court by which such Rule or Order shall be made, or which shall be mentioned in such Submission, or by Leave of a Judge; and the Arbitrator or Umpire shall and may and is hereby required to proceed with the Reference notwithstanding any such Revocation, and to make such Award, although the Person making such Revocation shall not afterwards attend the Reference; and that the Court or any Judge thereof may from Time to Time enlarge the Term for any such Arbitrator making his Award.

Power to compel the Attendance of Witnesses.

XL. And be it further enacted, That when any Reference shall have been made by any such Rule or Order as aforesaid, or by any Submission containing such Agreement as aforesaid, it shall be lawful for the Court by which such Rule or Order shall be made, or which shall be mentioned in such Agreement, or for any Judge, by Rule or Order to be made for that Purpose, to command the Attendance and Examination of any Person to be named, or the Production of any Documents to be mentioned in such Rule or Order; and the Disobedience to any such Rule or Order shall be deemed a Contempt of Court, if, in addition to the Service of such Rule or Order, an Appointment of the Time and Place of Attendance in obedience thereto, signed by One at least of the Arbitrators, or by the Umpire, before whom the Attendance is required, shall also be served either together with or after the Service of such Rule or Order: Provided always, that every Person whose Attendance shall be so required shall be entitled to the like Conduct Money, and Payment of Expences and for Loss of Time, as for and upon Attendance at any Trial: Provided also, that the Application made to such Court or Judge for such Rule or Order shall set forth the County where such Witness is residing at the Time, or satisfy such Court or Judge that such Person cannot be found: Provided also, that no Person shall be compelled to produce, under any such Rule or Order, any Writing or other Document that he would not be compelled to produce at a Trial, or to attend at more than Two consecutive Days, to be named in such Order.

XLI. And

Power for the Arbitrators under a Rule of Court to administer an Oath.

XLI. And be it further enacted, That when in any Rule or Order of Reference, or in any Submission to Arbitration containing an Agreement that the Submission shall be made a Rule of Court, it shall be ordered or agreed that the Witnesses upon such Reference shall be examined upon Oath, it shall be lawful for the Arbitrator or Umpire, or any One Arbitrator, and he or they are hereby authorized and required, to administer an Oath to such Witnesses, or to take their Affirmation in Cases where Affirmation is allowed by Law instead of Oath; and if upon such Oath or Affirmation any Person making the same shall wilfully and corruptly give any false Evidence, every Person so offending shall be deemed and taken to be guilty of Perjury, and shall be prosecuted and punished accordingly.

Power of granting Commissions to take Affidavits to extend to Scotland and Ireland.

XLII. And whereas it would be convenient if the Power of the Superior Courts of Common Law and Equity at *Westminster* to grant Commissions for taking Affidavits to be used in the said Courts respectively should be extended; be it further enacted by the Authority aforesaid, That the Lord High Chancellor, Lord Keeper or Lords Commissioners of the Great Seal, the said Courts of Law, and the several Judges of the same, shall have such and the same Powers for granting Commissions for taking and receiving Affidavits in *Scotland* and *Ireland*, to be used and read in the said Courts respectively, as they now have in all and every the Shires and Counties within the Kingdom of *England*, and Dominion of *Wales*, and Town of *Berwick-upon-Tweed*, and in the Isle of *Man*, by virtue of the Statutes now in force; and that all and every Person and Persons wilfully swearing or affirming falsely in any Affidavit to be made before any Person or Persons who shall be so empowered to take Affidavits under the Authority aforesaid shall be deemed guilty of Perjury, and shall incur and be liable to the same Pains and Penalties as if such Person had wilfully sworn or affirmed falsely in the open Court in which such Affidavit shall be entitled, and be liable to be prosecuted for such Perjury in any Court of competent Jurisdiction in that Part of the United Kingdom in which such Offence shall have been committed, or in that Part of the United Kingdom in which such Person shall be apprehended on such a Charge.

For the Abolition of certain Holidays.

XLIII. And whereas the Observance of Holidays in the said Courts of Common Law during Term Time, and in the Offices belonging to the same, on the several Days on which Holidays are now kept, is very inconvenient, and tends to Delay in the Administration of Justice; be it therefore enacted by the Authority aforesaid, That none of the several Days mentioned in the Statute passed in the Sessions of Parliament holden in the Fifth and Sixth Years of the Reign of King *Edward* the Sixth, intituled *An Act for keeping Holidays and Fasting Days*, shall be observed or kept in the said Courts, or in the several Offices belonging thereto, except *Sundays*, the Day of the Nativity of our Lord and the Three following Days, and *Monday* and *Tuesday* in *Easter* Week.

5 & 6 Edw. 6. c. 3.

Commencement of Act.

XLIV. And be it further enacted, That this Statute shall commence and take effect on the First Day of *June* One thousand eight hundred and thirty-three.

Not to extend to Ireland or Scotland.

XLV. And be it further enacted, That nothing in this Act shall extend to that Part of the United Kingdom called *Ireland*, or that Part of the United Kingdom called *Scotland*, except in the Cases herein-before specially mentioned.

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