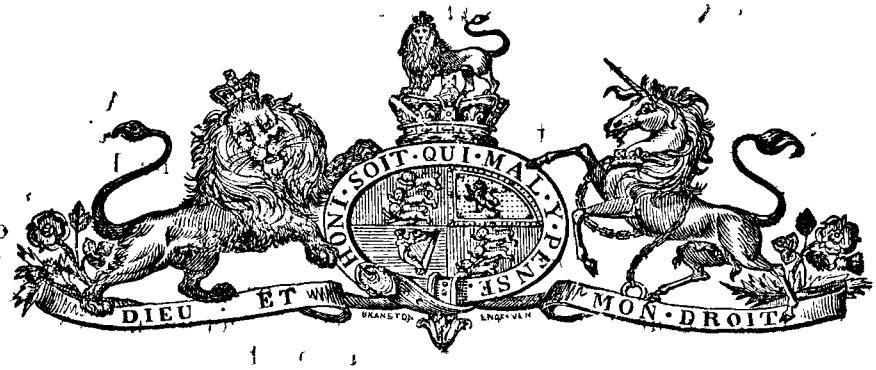


ANNO TERTIO & QUARTO

VICTORIÆ REGINÆ.

CAP. CV.

An Act for abolishing Arrest on Mesne Process in Civil Actions, except in certain Cases; for extending the Remedies of Creditors against the Property of Debtors; and for the further Amendment of the Law and the better Advancement of Justice in *Ireland*. [10th *August* 1840.]

WHEREAS the present Power of Arrest upon Mesne Process in *Ireland* is unnecessarily extensive and severe, and ought to be relaxed: And whereas it is expedient that certain Provisions of Acts of Parliament in force in *England* in relation to Actions in Courts of Common Law, and to Process and Proceedings therein, should be extended to *Ireland*: Be it therefore 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 from and after the Time appointed for the Commencement of this Act no Person shall be arrested upon Mesne Process in any Civil Action in any Inferior Court whatsoever, or (except in the Cases and in the Manner herein-after provided for) in any Superior Court.

Arrest on Mesne Process abolished, except in certain Cases.

II. And be it enacted, That if a Plaintiff in any Action in any of Her Majesty's Superior Courts of Law at *Dublin*, in which the Defendant is now liable to Arrest, whether upon the Order of a Judge or without

A Judge of a Superior Court may order Defendant to

be arrested in certain Cases.

without such Order, shall, by the Affidavit of himself or of some other Person, show, to the Satisfaction of a Judge of One of the said Superior Courts, that such Plaintiff has a Cause of Action against the Defendant or Defendants to the Amount of Twenty Pounds or upwards, or has sustained Damage to that Amount, and that there is probable Cause for believing that the Defendant or any One or more of the Defendants is or are about to quit *Ireland* unless he or they be forthwith arrested or held to special Bail, it shall be lawful for such Judge, by a special Order, to direct that such Defendant or Defendants so about to quit *Ireland* shall be held to Bail for such Sum as such Judge shall think fit, not exceeding the Amount of the Debt or Damages so sworn to as aforesaid; and thereupon it shall be lawful for such Plaintiff, within the Time which shall be expressed in such Order, but not afterwards, to sue out One or more Writ or Writs of Capias into One or more different Counties, as the Case may require, against any such Defendant so directed to be held to Bail, which Writ of Capias shall have marked at the Foot thereof or endorsed thereon the Sum for which such Defendant shall be so ordered to be arrested or held to Bail, and the said Writ shall have subscribed at the Foot thereof the Memorandum and Warning, and shall have endorsed thereon the several Endorsements in the Form in the Schedule (A.) to this Act annexed, and shall bear Date on the Day on which the same shall be issued, and be returnable into the Court out of which such Writ shall have issued, according to the Practice of such Court.

Sheriff may proceed to arrest Defendant.

Defendant to remain in Custody until he finds Bail, or makes a Deposit.

III. And be it enacted, That the Sheriff or other Officer to whom any such Writ of Capias shall be directed shall, before the Expiration of the Return of the said Writ, within One Calendar Month after the Date thereof, including the Day of such Date, but not afterwards, proceed to arrest the Defendant thereupon; and such Defendant when so arrested shall remain in Custody until he shall have given a Bail Bond to the Sheriff, or shall have made Deposit of the Sum endorsed on such Writ of Capias, together with Ten Pounds for Costs, according to the Practice of the said Superior Courts; and all subsequent Proceedings as to the putting in and perfecting Special Bail, or of making Deposit and Payment of Money into Court instead of putting in and perfecting Special Bail, shall be according to the like Practice of the said Superior Courts, or as near thereto as the Circumstances of the Case will admit.

Order may be made at any Time before final Judgment.

IV. And be it enacted, That any such Special Order may be made and the Defendant arrested in pursuance thereof at any Time after the Commencement of such Action, and before final Judgment shall have been obtained therein.

Defendant may apply for his Discharge forthwith.

Judge may discharge Defendant or not.

V. And be it enacted, That it shall be lawful for any Person arrested upon any such Writ of Capias to apply at any Time after such Arrest to a Judge of One of the Superior Courts at *Dublin*, or to the Court in which the Action shall have been commenced, for an Order or Rule on the Plaintiff in such Action to show Cause why the Person arrested should not be discharged out of Custody; and that it shall be lawful for such Judge or Court to make absolute or

discharge or refuse such Order or Rule, and to direct the Costs of the Application to be paid by either Party, or to make such other Order therein as to such Judge or Court shall seem fit; provided that any such Order made by a Judge may be discharged or varied by the Court on Application made thereto by either Party dissatisfied with such Order.

Order of Judge may be appealed from.

VI. And be it enacted, That every Prisoner who at the Time appointed for the Commencement of this Act shall be in Custody upon Mesne Process for any Debt or Demand, and shall not have filed a Petition to be discharged under the Laws in force for the Relief of Insolvent Debtors, may apply to the Court out of which such Process was issued, or any Judge thereof, for an Order or Rule on the Plaintiff in such Process to show Cause why the Prisoner so in Custody should not be discharged out of Custody; and it shall be lawful for such Court or Judge to make absolute or discharge or refuse such Order or Rule, and to direct the Costs of the Application to be paid by either Party, or to make such other Order therein as to such Judge or Court shall seem meet; provided that any such Order made by a Judge may be discharged or varied by the Court on Application made thereto by either Party dissatisfied with such Order; provided also, that every such Prisoner shall be liable to be detained, or after such Discharge to be again arrested, by virtue of any such special Order as aforesaid, at the Suit of the Plaintiff at whose Suit he was previously arrested, or of any other Plaintiff.

Prisoners in Custody on Mesne Process who have not filed Petitions under Insolvent Acts entitled to be discharged.

VII. And in order to prevent the Operation of any Statute of Limitation in bar of the Cause of Action of any Plaintiff in Cases in which such Cause of Action would be barred unless a Writ or Process issued and was continued for that Purpose, be it enacted, That every Writ or Process may be continued by Alias and Pluries, as the Case may require, if any Defendant therein named may not have been arrested or held to Bail thereunder or served therewith; Provided always, that no First Writ shall be available to prevent the Operation of any Statute whereby the Time for the Commencement of the Action may be limited, unless the Defendant shall be arrested or held to Bail thereunder or served therewith, or Proceeding to or towards Outlawry shall be had thereupon, or unless such Writ, and every Writ (if any) issued in continuation of a preceding Writ, shall be returned Non est inventus, and entered of Record within One Calendar Month after the Expiration of the Return of such Writ or Process, including the Day of such Expiration, and unless every Writ issued in continuation of a preceding Writ shall be issued within One Calendar Month after the Expiration of the preceding Writ, and shall contain a Memorandum endorsed thereon or subscribed thereto specifying the Day of the Date of the First Writ, such Return of Non est inventus to be made in bailable Process (in case such bailable Process shall be ordered to issue as aforesaid) by the Sheriff or other Officer to whom such Writ shall be directed, or his Successor in Office, and in Process not bailable, in case of Non-service thereof, to be made by the Plaintiff or his Attorney suing out the same, and signed by him, and in case such bailable Process shall be so returned

Where Statute of Limitations may be pleaded in bar of Actions, unless Writ, &c. issued and continued, such Writ, &c. may be continued by Alias and Pluries.

Non

Non est inventus, then for such Purpose of preventing the Operation of such Statute of Limitations the same may be continued by Alias and Pluries Writ not serviceable, to be continued and returned in manner aforesaid.

Manner of making a Debtor a Bankrupt.

VIII. And be it enacted, That if any single Creditor, or any Two or more Creditors being Partners, whose Debts shall amount to One hundred Pounds or upwards, or any Two Creditors whose Debts shall amount to One hundred and fifty Pounds or upwards, or any Three or more Creditors whose Debts shall amount to Two hundred Pounds or upwards, of any Trader within the Meaning of the Laws now in force respecting Bankrupts, shall file with the proper Officer in the Office of the Lord Chancellor's Secretary of Bankrupts in *Ireland*, an Affidavit or Affidavits, to be sworn before a Master Ordinary or Extraordinary in Chancery, that such Debt or Debts is or are justly due to him or them respectively, and that such Debtor as he or they verily believe is such Trader as aforesaid, and shall cause him to be served personally with a Copy of such Affidavit or Affidavits, and with a Notice in Writing stating that such Affidavit or Affidavits hath or have been filed in the said Office pursuant to this Act, and requiring immediate Payment of such Debt or Debts; and if such Trader shall not within Forty-one Days after personal Service of such Affidavit or Affidavits and Notice, or within such further Time as any Commissioner of Bankrupt shall order, pay such Debt or Debts, or secure or compound for the same to the Satisfaction of such Creditor or Creditors, or enter into a Bond in such Sum and with Two such sufficient Sureties as shall be approved of by any Judge of any of Her Majesty's Superior Courts at *Dublin*, or any Judge of Assize, or any Assistant Barrister at Quarter Sessions, or any Master in Ordinary of the Court of Chancery in *Ireland*, or any of such Persons as shall be for that Purpose appointed from Time to Time by any general or special Order of the Lord Chancellor of *Ireland*, or until such Appointment shall be made by any perpetual Commissioner appointed for taking Acknowledgments of Deeds by Married Women under the Act for "the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance, in *Ireland*," to pay such Sum or Sums as shall be recovered in any Action or Actions which shall have been brought or shall thereafter be brought for the Recovery of the same, together with such Costs as shall be given in the same, or to render himself to the Custody of the Gaoler of the Court in which such Action shall have been or may be brought according to the Practice of such Court, or within such Time and in such Manner as the said Court or any Judge thereof shall direct, after Judgment shall have been recovered in such Action, then and in any such Case such Trader shall be deemed to have committed an Act of Bankruptcy on the Forty-second Day after Service of such Affidavit or Affidavits and Notice, provided a Commission of Bankruptcy shall issue against such Trader within Two Calendar Months from the filing of such Affidavit or Affidavits, but not otherwise.

In Cases of Outlawry Plaintiff may

IX. And be it enacted, That in all Cases in which a Plaintiff intends to proceed to outlaw or waive a Defendant by Writs of Exegi

Exegi and Proclamations in order to compel the Appearance of such Defendant in any Civil Action, it shall and may be lawful for such Plaintiff to take such Proceedings, and to sue out such Writ and Writs of Capias for that Purpose, in such Manner as may be now lawfully done; but no Defendant shall be arrested, detained in Custody, or held to Special Bail under or by virtue of such Proceeding, Writ or Writs.

sue out Writs of Exegit and Proclamations, but Defendant not to be arrested thereon.

X. And whereas it is expedient that Provision should be made for giving every Person executing a Warrant of Attorney to confess Judgment, or a Cognovit actionem, (save as herein-after mentioned,) due Information of the Nature and Effect thereof; be it enacted, That from and after the Time appointed for the Commencement of this Act no Warrant of Attorney to confess Judgment in any personal Action, or Cognovit actionem given by any Person, save and except a Warrant of Attorney to confess Judgment in an Action upon a Bond or Writing obligatory recited therein or collateral therewith, shall be of any Force unless there shall be present some Attorney of One of the Superior Courts on behalf of such Person, expressly named by him, and attending at his Request, to inform him of the Nature and Effect of such Warrant or Cognovit, before the same is executed; which Attorney shall subscribe his Name as a Witness to the due Execution thereof, and thereby declare himself to be Attorney for the Person executing the same, and state that he subscribes as such Attorney.

Warrants of Attorney or Cognovit actionem to be executed in the Presence of an Attorney on behalf of the Person except Warrants collateral with Bonds.

XI. And be it enacted, That a Warrant of Attorney to confess Judgment, or Cognovit actionem, (save and except as aforesaid,) not executed in manner aforesaid, shall not be rendered valid by Proof that the Person executing the same did in fact understand the Nature and Effect thereof, or was fully informed of the same.

Warrant, &c. not formally executed invalid.

XII. And whereas Injustice is frequently done to Creditors by secret Warrants of Attorney to confess Judgments for securing the Payment of Money, whereby Persons in a State of Insolvency are enabled to keep up the Appearance of being in good Circumstances, and the Persons holding such Warrants of Attorney have the Power of taking the Property of such Insolvents in Execution at any Time to the Exclusion of the rest of their Creditors; for Remedy whereof be it enacted, That from and after the First Day of *November* One thousand eight hundred and forty, if the Holder thereof shall think fit, every Warrant of Attorney to confess Judgment in any Personal Action, or a true Copy thereof, and of the Attestation thereof, and the Defeasance and Endorsement thereon (if any), shall, within Twenty-one Days after the Execution of such Warrant of Attorney, be filed, together with an Affidavit of the Time of the Execution thereof, with the proper Officer in One of Her Majesty's Superior Courts at *Dublin* in which Judgment upon such Warrant of Attorney shall thereafter be entered up.

Warrants of Attorney in Personal Actions to be filed within Twenty one Days.

XIII. And be it enacted, That from and after the First Day of *November* One thousand eight hundred and forty, if at any Time after

In what Case Warrant of At-

torney, &c. deemed fraudulent and void.

after the Expiration of Twenty-one Days next after the Execution of such Warrant of Attorney, a Commission of Bankrupt shall be issued against the Person who shall have given such Warrant of Attorney, under which he shall be duly found and declared a Bankrupt, or any such Person shall be imprisoned for Debt, and file a Petition in the Court for Relief of Insolvent Debtors, whereon a vesting Order shall be made under the Provisions of any Act to continue and amend the Laws for Relief of Insolvent Debtors in *Ireland*; then and in such Case, unless such Warrant of Attorney, or a Copy thereof, shall have been filed as aforesaid within the said Space of Twenty-one Days from the Execution thereof, or unless Judgment shall have been signed, or Execution issued on such Warrant of Attorney within the same Period, and in the Court in which such Warrant of Attorney, or such Copy thereof, shall have been filed, such Warrant of Attorney, and the Judgment and Execution thereon, shall be deemed fraudulent and void against the Assignees under such Commission, and against the Provisional or other Assignee or Assignees of such Prisoner appointed under such Act, and such Assignee or Assignees shall be entitled to recover back and receive, for the Use of the Creditors of such Bankrupt or Prisoner, all and every the Monies levied or Effects seized under and by virtue of such Judgment and Execution.

Defeasance of Warrant of Attorney, &c. to be written on the same Paper.

XIV. And be it enacted, That if such Warrant of Attorney shall be given subject to any Defeasance or Condition, such Defeasance or Condition shall be written on the same Paper on which such Warrant of Attorney shall be written, before the Time when the same, or a Copy thereof respectively, shall be filed, otherwise such Warrant of Attorney shall be null and void to all Intents and Purposes.

Officer of Court to keep a Book containing List and Particulars of each Warrant of Attorney.

XV. And be it enacted, That the said Officer of the said Court in which such Warrant of Attorney or Copy thereof shall be filed shall cause every such Warrant of Attorney in any personal Action, and every Copy thereof filed in his said Office, to be numbered, and shall keep a Book or Books in his said Office in which he shall cause to be fairly entered an alphabetical List of every such Warrant of Attorney, containing therein the Names and Additions and Descriptions of the respective Defendants or Persons giving such Warrants of Attorney, and also the Names, Additions, and Descriptions of the Plaintiff or Persons in whose Favour the same shall have been given, together with the Number and Dates of the Execution, and filing of the same, or of a Copy thereof respectively, and the Sums for which Judgment is to be entered up, and also the Sums which are specified to be paid by the Defeasances or Conditions in each Warrant of Attorney, and the Times when the same are thereby made payable, according to the Form contained in the Schedule (B.) to this Act annexed, which said Book or Books, and every Warrant of Attorney or Copy thereof, filed in the said Office, shall be searched and viewed by all Persons at all reasonable Times, paying for every Search against each Person executing such Warrant of Attorney the Sum of Sixpence, and no more.

XVI. And

XVI. And be it enacted, That there shall be paid for filing and entering such Warrant of Attorney, or a Copy thereof as aforesaid, the Sum of One Shilling, and no more. Fee for filing Warrant

XVII. And be it enacted, That any Person shall be entitled to have an Office Copy of each Warrant of Attorney, or of the Copy thereof, filed as aforesaid, in like Manner as Office Copies of Judgments in each such Court respectively. Office Copy had on paying for.

XVIII. And be it enacted, That it shall be lawful for any of the Judges of the Court in which the said Warrant of Attorney or Copy thereof is filed to order a Memorandum of Satisfaction to be written upon such Warrant of Attorney, or Copy thereof respectively as aforesaid, if it shall appear to him or them that the Debt for which such Warrant of Attorney is given as a Security shall have been satisfied or discharged. Satisfaction to be entered on Warrant of Attorney.

XIX. And whereas the existing Law is defective in not providing adequate Means for enabling Judgment Creditors to obtain Satisfaction from the Property of their Debtors, and it is expedient to give Judgment Creditors more effectual Remedies against the Real and Personal Estate of their Debtors than they possess under the existing Law; be it therefore enacted, That it shall be lawful for the Sheriff or other Officer to whom any Writ of Elegit, or any Precept in pursuance thereof, shall be directed at the Suit of any Person, upon any Judgment which at the Time appointed for the Commencement of this Act shall have been recovered, or shall be thereafter recovered, in any Action in any of Her Majesty's Superior Courts at *Dublin*, to make and deliver Execution unto the Party in that Behalf suing, of all such Lands, Tenements, Rectories, Tithes, Rents, and Hereditaments, including Lands and Hereditaments which may be of Copyhold Tenure, as the Person against whom Execution is so sued, or any Person in Trust for him, shall have been seised or possessed of at the Time of entering up the said Judgment, or at any Time afterwards, or over which such Person shall at the Time of entering up such Judgment, or at any Time afterwards, have any disposing Power which he might, without the Assent of any other Person, exercise for his own Benefit, in like Manner as the Sheriff or other Officer may now make and deliver Execution of one Moiety of the Lands and Tenements of any Person against whom a Writ of Elegit is sued out; which Lands, Tenements, Rectories, Tithes, Rents, and Hereditaments, by force and virtue of such Execution, shall accordingly be held and enjoyed by the Party to whom such Execution shall be so made and delivered, subject to such Account in the Court out of which such Execution shall have been sued out as a Tenant by Elegit is now subject to in a Court of Equity: Provided always, that such Party suing out Execution, and to whom any Copyhold Lands may be so delivered in Execution, shall be liable and is hereby required to make, perform, and render to the Lord of the Manor, or other Person entitled, all such and the like Payments and Services as the Person against whom such Execution shall be issued would have been bound to make, perform, and render in case such Execution had not issued, and that the Party Sheriff empowered to deliver Execution of Lands, &c. to Judgment Creditor. Proviso as to Copyhold Lands.

so

so suing out such Execution, and to whom any such Copyhold Lands shall have been so delivered in Execution, shall be entitled to hold the same until the Amount of such Payments and the Value of such Services, as well as the Amount of the Judgment, shall have been levied; Provided also, that as against Purchasers, Mortgagees, or Creditors who shall have become such before the Time appointed for the Commencement of this Act, such Writ of Elegit shall have no greater or other Effect than a Writ of Elegit would have had in case this Act had not passed.

Proviso as to Purchasers, Mortgagees, or Creditors.

Sheriff empowered to seize Money, Bank Notes, &c.;

XX. And be it enacted, That by virtue of any Writ of Fieri facias to be sued out of any Superior or Inferior Court after the Time appointed for the Commencement of this Act, or any Precept in pursuance thereof, the Sheriff or other Officer having the Execution thereof may and shall seize and take any Money or Bank Notes (whether of the Governor and Company of the Bank of *Ireland*, or of any other Bank or Bankers), and any Cheques, Bills of Exchange, Promissory Notes, Bonds, Specialties, or other Securities for Money, belonging to the Person against whose Effects such Writ of Fieri facias shall be sued out; and may and shall pay or deliver to the Party suing out such Execution any Money or Bank Notes which shall be so seized, or a sufficient Part thereof, and may and shall hold any such Cheques, Bills of Exchange, Promissory Notes, Bonds, Specialties, or other Securities for Money as a Security or Securities for the Amount by such Writ of Fieri facias directed to be levied, or so much thereof as shall not have been otherwise levied and raised; and may sue, in the Name of such Sheriff or other Officer, for the Recovery of the Sum or Sums secured thereby, if and when the Time of Payment thereof shall have arrived, and that the Payment to such Sheriff or other Officer by the Party liable on any such Cheque, Bill of Exchange, Promissory Note, Bond, Specialty, or other Security, with or without Suit, or the Recovery and levying Execution against the Party so liable, shall discharge him to the Extent of such Payment or of such Recovery and Levy in Execution, as the Case may be, from his Liability on any such Cheque, Bill of Exchange, Promissory Note, Bond, Specialty, or other Security; and such Sheriff or other Officer may and shall pay over to the Party suing out such Writ the Money so to be recovered, or such Part thereof as shall be sufficient to discharge the Amount by such Writ directed to be levied; and if, after Satisfaction of the Amount so to be levied, together with Sheriff's Poundage and Expences, any Surplus shall remain in the Hands of such Sheriff or other Officer, the same shall be paid to the Party against whom such Writ shall be so issued: Provided that no such Sheriff or other Officer shall be bound to sue any Party liable upon any such Cheque, Bill of Exchange, Promissory Note, Bond, Specialty, or other Security, unless the Party suing out such Execution shall enter into a Bond, with Two sufficient Sureties, for indemnifying him from all Costs and Expences to be incurred in the Prosecution of such Action, or to which he may become liable in consequence thereof, the Amount of such Bond or the Sufficiency of such Sureties, or such Amount and such Sufficiency, to be determined by the Prothonotary or Clerk of the Pleas of the Court in which such Action shall be brought, or, if the Court shall so order, by a Commissioner of such

and to pay Money or Bank Notes to Execution Creditor;

and to sue for Amount secured by Bills of Exchange and other Securities.

Indemnity for Sheriff.

such Court authorized to take special Bail, and the Expence of such Bond to be deducted out of any Money to be recovered in such Action.

Receiver to be appointed or extended in certain Cases at the Suit of Creditors by Judgment or Recognizance.

XXI. And be it enacted, That it shall be lawful for any Person entitled to sue out, or who has already sued out, a Writ of Elegit upon any Judgment recovered in any of Her Majesty's Courts at *Dublin*, or to issue, or who has issued, Execution in any Suit or Proceeding on any Recognizance there, to apply by Petition to the Court of Chancery, or to the Court of Exchequer at the Equity Side thereof, for an Order that a Receiver may be appointed over any Lands, Tenements, Rectories, Tithes, Annuities, Rents, or Hereditaments by this Act made liable to be seized, extended, appraised, or taken in Execution on any such Judgment, and also (after such Order shall have been obtained as herein-after mentioned) all Government Stock, Funds, or Annuities, or Stock or Shares of or in any public Company, or the Dividends or Proceeds thereof, to which any Person or Persons against whom any such Judgment may have been obtained, or who may be liable to pay the same, or any Person or Persons in Trust for him or them, or any of them, may be entitled, or to order that any Receiver appointed before the passing of this Act over the Property of any Judgment Debtor may be extended to the Matter of such new Petition; and that in proceeding under the Act passed in the Session of Parliament held in the Fifth and Sixth Years of His late Majesty King *William* the Fourth, intituled *An Act for facilitating the Appointment of Sheriffs in* Ireland, *and the more effectual Audit and passing their Accounts; and for the more speedy Return and Recovery of Fines, Fees, Forfeitures, Recognizances, Penalties, and Deodands; and to abolish certain Offices in the Court of Exchequer in* Ireland; *and to amend the Laws relating to Grants in custodiam and Recovery of Debts in* Ireland; *and to amend an Act of the Second and Third Years of His present Majesty, for transferring the Powers and Duties of the Commissioners of Public Accounts in* Ireland *to the Commissioners for auditing the Public Accounts of* Great Britain, and this Act, the said Court of Chancery, and Court of Exchequer at the Equity Side thereof, shall have Power to appoint or extend a Receiver in a summary Way, on a Petition at the Instance of such Person, over any Property of such Judgment Debtor which such Creditor would or could make available for the Payment of his Judgment Debt by filing (after a Writ of Execution had been issued and returned at Law upon such Judgment) a Bill in a Court of Equity, or by any Writ of Execution at Law, or (subject to the Proviso herein-after contained) by Petition under the Provisions of this Act; and it shall be lawful for the said Courts respectively to appoint or extend a Receiver accordingly over the whole thereof, or over so much thereof as shall appear to be sufficient for the Purposes of paying the Sum due on such Judgment or Recognizance; and every such Petition shall state the Judgment or Recognizance, and the Sum due thereon, and shall be verified by the Affidavit of the Person interested, or by such other Affidavit as the Court shall direct, stating the Sum due for Principal, Interest, and Costs, over and above all just and fair Allowances; and it shall be lawful for the said Court to require Proof by the Affidavit of the Party applying for such Order, or by such other Affidavit or

5 & 6 W. 4. c. 55.

Affidavits or Evidence as it shall require, of the Particulars of such Property over which such Receiver shall be sought, and the Nature and Amount in Value thereof, and where situate, as to such Court shall appear just and reasonable; and the Proceedings on any such Petition may from Time to Time be continued by or against the Representatives of the original Parties, or other Persons interested or liable respectively in respect of such Judgment, in the same Manner as Proceedings under the said recited Act may now be continued; and that it shall not be necessary in proceeding under the said last-mentioned Act of the Fifth and Sixth Years of His late Majesty King *William* the Fourth, or this Act, at any Time during the Sittings of either of the said Courts of Chancery or Exchequer, to present a Petition, in order to obtain an Order of the Court in such Matter, after an Order shall have been made by such Courts respectively on the first Petition presented in any such Matter; and no Costs of any such Petition so presented after an Order on such first Petition shall be allowed.

Judgment to operate as a Charge on Real Estates.

XXII. And be it enacted, That a Judgment already entered up, or to be hereafter entered up, against any Person in any of Her Majesty's Superior Courts at *Dublin*, shall operate as a Charge upon all Lands, Tenements, Rectories, Advowsons, Tithes, Rents, and Hereditaments, including Lands and Hereditaments of Copyhold Tenure, of or to which such Person shall at the Time of entering up such Judgment, or at any Time afterwards, be seised, possessed, or entitled for any Estate or Interest whatever at Law or in Equity, whether in Possession, Reversion, Remainder, or Expectancy, or over which such Person shall, at the Time of entering up such Judgment or at any Time afterwards, have any disposing Power which he might, without the Assent of any other Person, exercise for his own Benefit, and shall be binding as against the Person against whom Judgment shall be so entered up, and against all Persons claiming under him after such Judgment, and shall also be binding as against the Issue of his Body and all other Persons whom he might, without the Assent of any other Person, cut off and debar from any Remainder, Reversion, or other Interest in or out of any of the said Lands, Tenements, Rectories, Advowsons, Tithes, Rents, and Hereditaments; and that every Judgment Creditor shall have such and the same Remedies in a Court of Equity against the Hereditaments so charged by virtue of this Act, or any Part thereof, as he would be entitled to in case the Person against whom such Judgment shall have been so entered up had Power to charge the same Hereditaments, and had by Writing under his Hand agreed to charge the same, with the Amount of such Judgment Debt and Interest thereon; Provided that no Judgment Creditor shall be entitled to proceed in Equity to obtain the Benefit of such Charge under this Act until after the Expiration of One Year from the Time of entering up such Judgment, or in Cases of Judgments already entered up, or to be entered up before the Time appointed for the Commencement of this Act, until after the Expiration of One Year from the Time appointed for the Commencement of this Act; nor shall such Charge operate to give the Judgment Creditor any Preference in case of the Bankruptcy of the Person against whom Judgment shall have been entered up unless such Judgment shall have been entered up

Charge not to be enforced until after the Expiration of a Year.

One Year at least before the Bankruptcy; provided also, that as regards Purchasers, Mortgagees, or Creditors who shall have become such before the Time appointed for the Commencement of this Act, such Judgment shall not affect Lands, Tenements, or Hereditaments otherwise than as the same would have been affected by such Judgment if this Act had not passed; provided also, that nothing herein contained shall be deemed or taken to alter or affect any Doctrine of Courts of Equity, whereby Protection is given to Purchasers for valuable Consideration, without Notice; provided also, that nothing in this Act contained shall take away or prejudice any Remedy or Proceeding which any Judgment Creditor may, or if this Act were not passed might, have or take in relation to his Judgment, but such Creditor shall be at liberty to proceed at Law or in Equity for Recovery of any Sum secured by or due upon any such Judgment, whether before or after such Period as aforesaid, as if this Act had not been passed.

Proviso as to Purchasers, &c.

XXIII. And be it enacted, That if any Person against whom any Judgment shall have been entered up in any of Her Majesty's Superior Courts at *Dublin* shall have any Government Stock, Funds, or Annuities, or any Stock or Shares of or in any public Company in *Ireland* (whether incorporated or not), standing in his Name in his own Right, or in the Name of any Person in Trust for him, it shall be lawful for the Court of Chancery, or the Court of Exchequer at the Equity Side thereof, on any such Petition as aforesaid, and also for any of the Superior Courts of Law, or a Judge thereof, on the Application of any Judgment Creditor, to order that such Stock, Funds, Annuities, or Shares, or such of them or such Part thereof respectively as he shall think fit, shall stand charged with the Payment of the Amount for which Judgment shall have been so recovered and Interest thereon; and such Order shall entitle the Judgment Creditor to all such Remedies as he would have been entitled to if such Charge had been made in his Favour by the Judgment Debtor; and the Provisions last aforesaid shall extend to the Interest of any Judgment Debtor, whether in Possession, Remainder, or Reversion, and whether vested or contingent, as well in any such Stocks, Funds, Annuities, or Shares as aforesaid, as also in the Dividends, Interest, or annual Produce of any such Stock, Funds, Annuities, or Shares; and whenever any such Judgment Debtor shall have any Estate, Right, Title, or Interest, vested or contingent, in Possession, Remainder, or Reversion, in, to, or out of any such Stock, Funds, Annuities, or Shares as aforesaid which shall be standing in the Name of the Accountant General of the Court of Chancery or the Accountant General of the Court of Exchequer, or in, to, or out of the Dividends, Interest, or annual Produce thereof, it shall be lawful for such Court or Judge to make any Order as to such Stock, Funds, Annuities, or Shares, or the Interest, Dividends, or annual Produce thereof, in the same Way as if the same had been standing in the Name of a Trustee of such Judgment Debtor: Provided always, that no Order of any Court or Judge as to any Stock, Funds, Annuities, or Shares standing in the Name of the Accountant General of the Court of Chancery or the Accountant General of the Court of Exchequer, or as to the Interest, Dividends, or annual Produce thereof, shall

Stock and Shares in public Funds and public Companies belonging to the Debtor, and standing in his own Name, to be charged by Order of a Judge.

shall prevent the Governor and Company of the Bank of *Ireland*, or any public Company, from permitting any Transfer of such Stocks, Funds, Annuities, or Shares, or Payment of the Interest, Dividends, or annual Produce thereof, in such Manner as the Court of Chancery or the Court of Exchequer respectively may direct, or shall have any greater Effect than if such Debtor had charged such Stock, Funds, Annuities, or Shares, or the Interest, Dividends, or annual Produce thereof, in favour of the Judgment Creditor, with the Amount of the Sum to be mentioned in any such Order: Provided also, that no Proceedings shall be taken, save by the presenting of such Petition as aforesaid, to have the Benefit of such Charge until after the Expiration of Six Calendar Months from the Date of such Order.

Order of Judge to be made, in the first instance, ex parte, and on Notice to the Bank or Company to operate as a Distringas.

XXIV. And in order to prevent any Person against whom Judgment shall have been obtained from transferring, receiving, or disposing of any Stock, Funds, Annuities, or Shares hereby authorized to be charged for the Benefit of the Judgment Creditor under an Order of a Court or Judge, be it enacted, That every Order of any such Court or Judge charging any Government Stock, Funds, or Annuities, or any Stock or Shares in any public Company under this Act, shall be made in the first instance *ex parte*, and without any Notice to the Judgment Debtor, and shall be an Order to show Cause only; and such Order, if any Government Stock, Funds, or Annuities standing in the Name of the Judgment Debtor in his own Right, or in the Name of any Person in Trust for him, is or are to be affected by such Order, shall restrain the Governor and Company of the Bank of *Ireland* from permitting a Transfer of such Stock in the meantime and until such Order shall be made absolute or discharged, and if any Stock or Shares of or in any public Company standing in the Name of the Judgment Debtor in his own Right, or in the Name of any Person in Trust for him, is or are to be affected by any such Order, shall in like Manner restrain such public Company from permitting a Transfer thereof; and that if after Notice of such Order to the Person or Persons to be restrained thereby, or in case of Corporations to any authorized Agent of such Corporation, and before the same Order shall be discharged or made absolute, such Corporation or Person or Persons shall permit any such Transfer to be made, then and in such Case the Corporation or Person or Persons so permitting such Transfer shall be liable to the Judgment Creditor for the Value or Amount of the Property so charged and so transferred, or such Part thereof as may be sufficient to satisfy his Judgment; and that no Disposition of the Judgment Debtor in the meantime shall be valid or effectual as against the Judgment Creditor; and further, that unless the Judgment Debtor shall, within a Time to be mentioned in such Order, show to one of the said Courts, or a Judge thereof, sufficient Cause to the contrary, the said Order shall, after Proof of Notice thereof to the Judgment Debtor, his Attorney or Agent, be made absolute; provided that any such Court or Judge shall, upon the Application of the Judgment Debtor, or any Person interested, have full Power to discharge or vary such Order, and to award such Costs, upon such Application, as such Court or Judge may think fit.

XXV. And

Securities not realized to be relinquished if the Person taken in Execution.

XXV. And be it enacted, That if any Judgment Creditor who under the Powers of this Act shall have obtained any Charge, or be entitled to the Benefit of any Security whatsoever, shall afterwards and before the Property so charged or secured shall have been converted into Money or realized, and the Produce thereof applied towards Payment of the Judgment Debt, cause the Person of the Judgment Debtor to be taken or charged in Execution upon such Judgment, then and in such Case such Judgment Creditor shall be deemed and taken to have relinquished all Right and Title to the Benefit of such Charge or Security, and shall forfeit the same accordingly.

Judgment Debts to carry Interest.

XXVI. And be it enacted, That every Judgment Debt due upon any Judgment not confessed or recovered for any penal Sum for securing Principal and Interest shall carry Interest at the Rate of Four Pounds *per Centum per Annum* from the Time of entering up the Judgment, or from the Time of the Commencement of this Act in Cases of Judgments then entered up and not carrying Interest, until the same shall be satisfied, and such Interest may be levied under a Writ of Execution on such Judgment.

Decrees and Orders of Courts of Equity, &c. to have Effect of Judgments.

XXVII. And be it enacted, That all Decrees and Orders of the Court of Chancery, and of the Court of Exchequer at the Equity Side thereof, and all Rules of any of the Superior Courts of Common Law, and all Orders of the Lord Chancellor or Master of the Rolls, or of the Court of Commissioners of Bankruptcy, and all Orders of the Lord Chancellor in Matters of Lunacy, whereby any Sum of Money, or any Costs, Charges, or Expences, shall be payable to any Person, shall have the Effect of Judgments in the Superior Courts of Common Law, and the Persons to whom any such Monies or Costs, Charges, or Expences shall be payable shall be deemed Judgment Creditors within the Meaning of this Act; and all Powers hereby given to the Judges of the Superior Courts of Common Law with respect to Matters depending in the same Courts shall and may be exercised by the Courts of Chancery and Exchequer at the Equity Side thereof with respect to Matters therein depending, and by the Lord Chancellor, Master of the Rolls, and Court of Commissioners of Bankrupt respectively in Matters of Bankruptcy, and by the Lord Chancellor in Matters of Lunacy; and all Remedies hereby given to Judgment Creditors are in like Manner given to Persons to whom any Monies or Costs, Charges, or Expences are by such Orders or Rules respectively directed to be paid; and the Date of the same, and Amount due on Foot thereof, shall be stated in any Petition for a Receiver under the said Act of the Fifth and Sixth Years of the Reign of His late Majesty King *William* the Fourth, and this Act, as in the Case of a Petition founded on a Judgment entered or recovered in any of such Superior Courts of Law as aforesaid.

No Decree, &c., to affect Real Estate, until registered.

XXVIII. Provided always, and be it enacted, That no Decree or Order in any Court of Equity, nor any Rule of a Court of Common Law, nor any Order in Bankruptcy or Lunacy, shall, by virtue of this Act, affect any Lands, Tenements, or Hereditaments, as to Purchasers, Mortgagees, or Creditors, unless and until a Memorandum

or

or Minute containing the Name and the usual or last known Place of Abode, and the Title, Trade, or Profession, of the Person whose Estate is intended to be affected thereby, and the Court, and the Title of the Cause or Matter in which such Decree, Order, or Rule shall have been obtained or made, and the Date of such Decree, Order, or Rule, and the Amount of the Debt, Damages, Costs, or Monies thereby recovered or ordered to be paid, shall be left with such Person, being any Officer of the Court of Chancery or of the Court of Exchequer, as the Lord Chancellor, Master of the Rolls, and Lord Chief Baron shall appoint, any Notice of any such Decree, Order, or Rule to any Purchaser, Mortgagee, or Creditor in anywise notwithstanding; and such Officer shall forthwith enter the same Particulars in a Book in alphabetical Order, by the Name of the Person whose Estate is intended to be affected by such Judgment, Decree, Order, or Rule; and such Officer shall be entitled for any such Entry to the Sum of Five Shillings; and all Persons shall be at liberty to search the same Book on Payment of the Sum of One Shilling.

New Writs to be framed.

XXIX. And be it enacted, That such new or altered Writs shall be sued out of the Courts of Law, Equity, and Court of Commissioners of Bankrupt as may by such Courts respectively be deemed necessary or expedient for giving Effect to the Provisions hereinbefore contained, and in such Forms as the Judges of such Courts respectively shall from Time to Time think fit to order; and the Execution of such Writs shall be enforced in such and the same Manner as the Execution of Writs of Execution is now enforced, or as near thereto as the Circumstances of the Cases will admit; and that any existing Writ the Form of which shall be in any Manner altered in pursuance of this Act shall nevertheless be of the same Force and Virtue as if no Alteration had been made therein, except so far as the Effect thereof may be varied by this Act.

For Removal of Judgment of Inferior Courts.

XXX. And be it enacted, That in all Cases where final Judgment shall be obtained in any Action or Suit in any Inferior Court of Record, in which at the Time of passing of this Act a Barrister of not less than Six Years standing shall act as Judge, Assessor, or Assistant in the Trial of Causes, and also in all Cases where any Rule or Order shall be made by any such Inferior Court of Record as aforesaid, whereby any Sum of Money, or any Costs, Charges, or Expences, shall be payable to any Person, it shall be lawful for the Judges of any of Her Majesty's Superior Courts of Record at *Dublin*, or for any Judge of any of the said Courts at Chamber, either in Term or Vacation, upon the Application of any Person who at the Time of the Commencement of this Act shall have recovered or who shall at any Time thereafter recover such Judgment, or to whom any Money, or Costs, Charges, or Expences, shall be payable by such Rule or Order as aforesaid, or upon the Application of any Person on his Behalf, and upon the Production of the Record of such Judgment, or upon the Production of such Rule or Order, such Record, or Rule or Order, as the Case may be, being respectively under the Seal of the Inferior Court and Signature of the proper Officer thereof, to order and direct the Judgment, or (as the Case may be) the Rule or Order of

such Inferior Court, to be removed into the said Superior Court; and immediately thereupon such Judgment, Rule, or Order shall be of the same Force, Charge, and Effect as a Judgment recovered in or a Rule or Order made by such Superior Court; and all Proceedings shall and may be immediately had and taken thereupon, or by reason or in consequence thereof, as if such Judgment so recovered, or Rule or Order so made, had been originally recovered in or made by the said Superior Court; and all the reasonable Costs and Charges attendant upon such Application and Removal shall be recovered in like Manner as if the same were Part of such Judgment, or Rule or Order: Provided always, that no such Judgment, or Rule or Order, when so removed as aforesaid, shall affect any Lands, Tenements, or Hereditaments as to Purchasers, Mortgagees, or Creditors any further than the same would have done if the same had remained a Judgment, Rule, or Order of such Inferior Court, unless and until a Writ of Execution thereon shall be actually put into the Hands of the Sheriff or other Officer appointed to execute the same: Provided also, that nothing herein contained shall extend or apply to any Decree, Dismiss, Rule, or Order of any Assistant Barrister, or any Order of any Judge made upon any Appeal from any such Decree or Dismiss, or to any Decree or Order of any Manor Court, or to any Order made upon any Appeal from any such Decree or Order.

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

XXXI. 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.

XXXII. And be it 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

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 Time when this Act shall commence and take effect, 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 and 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.

Infants, Femes Covert, &c.

XXXIII. And be it 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.

Ackowledgment in Writing, or Part Payment.

XXXIV. Provided always, and be it enacted, 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 the Seas (as the Case may be); and the

Plaintiff

Plaintiff or Plaintiffs in any such Action on 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 Outlawry reversed.

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

XXXVI. And be it 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 Her Majesty, shall be deemed to be beyond the Seas within the Meaning of this Act, or of the Act passed in the Tenth Year of the Reign of King *Charles* the First, intituled *An Act for Limitation of Actions, and for avoiding of Suits in Law.*

Restriction as to Plea in abatement for Nonjoinder of a Co-defendant.

XXXVII. And be it 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 Nonjoinder.

XXXVIII. And be it 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.

In Case of subsequent Proceedings against the Persons named in a Plea in abatement.

XXXIX. And be it 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.

Misnomer not to be pleaded in abatement.

XL. And be it 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.

Initials of Names may be used in some Cases.

XLI. And be it 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.

Wager of Law abolished.

XLII. And be it enacted, That no Wager of Law shall be hereafter allowed.

Action of Debt on simple Contract.

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

Power for the Judges to make Regulations as to the Admission of written Documents.

XLIV. 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 enacted, That it shall and may be lawful for the Judges of the Superior Courts of Common Law at *Dublin*, or any Eight or more of them, of whom the Chiefs of each of the said Courts shall be Three, 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.

Sheriffs to name Deputies to be resident in Dublin.

XLVII. And be it enacted, That, from and after the First Day of *January* One thousand eight hundred and forty-one, the Sheriff of each County in *Ireland* shall severally name a sufficient Deputy, who shall be resident or have an Office within One Mile from the Four Courts, *Dublin*, 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 Leave of Court or Judge.

XLVIII. And be it 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.

XLIX. 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 in certain Cases.

L. And whereas great Expence is often incurred, and Delay or Failure of Justice takes place at Trials, by reason of Variances 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 Mistatement 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 hereinafter 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

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 the Order for the Amendment shall be endorsed 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 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.

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

XLIX. And be it 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 Mistatement 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.

L. And

Power to state a special Case without proceeding to Trial.

L. And be it 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.

LI. And in order to render the Rejection of Witnesses on the Ground of Interest less frequent, be it 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.

Names of such Witnesses to be endorsed on the Record.

LII. And be it 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 endorsed 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 Endorsement 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.

LIII. And be it 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 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; and provided also, that such Interest so to be allowed by such Jury shall not be so allowed for any Period exceeding Six Years.

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

LIV. And be it 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, for any Period not exceeding Six Years, 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,

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.

LV. And be it 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 in case of Nonsuit, &c.

LVI. And be it 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.

LVII. And be it 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.

LVIII. And be it 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.

LIX. And be it 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, 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 Nonsuit.

3 & 4 W. 4. c. 91.

LX. And whereas it is provided in and by a Statute passed in the Session of Parliament held in the Third and Fourth Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for consolidating and amending the Law relative to Jurors and Juries in* Ireland, 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.

Executors of Lessor may distrain for Arrears in his Lifetime.

LXI. And be it enacted, That it shall be lawful for the Executors or Administrators of any Lessor or Landlord 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 Six Months after Determination of Term.

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

LXIII. And whereas it is expedient to render References to Arbitration more effectual; be it 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 Her 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.

LXIV. And be it enacted, That when any Reference shall have been made by any such Rule or Order as aforesaid, or by any Submission containing

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.

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

LXV. And be it 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.

LXVI. And whereas great Difficulties and Delays may be experienced, and sometimes a Failure of Justice may take place, in Actions depending in Courts of Law in *Ireland*, by reason of the Want of a competent Power or Authority in the said Courts to order and enforce the Examination of Witnesses, when the same may be required, before the Trial of a Cause: And whereas by an Act passed in the Parliament of *Great Britain* in the Thirteenth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for the establishing certain Regulations for the better Management of the Affairs of the* East India *Company as well in* India *as in* Europe, certain Powers are given and Provisions made for the Examination of Witnesses in *India* in the Cases therein mentioned: And whereas by an Act passed in the First Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act to enable Courts of Law to order the Examination of Witnesses upon Interrogatories, and otherwise*, further Provisions were made in relation to the Examination of Witnesses in all Colonies, Islands, Plantations, and Places under the Dominion of the

13 G. 3, c. 63.

1 W. 4. c. 22.

the Crown of *England* in Foreign Parts: And whereas it is expedient to extend to *Ireland* certain Provisions of the said Two last-mentioned recited Acts; be it therefore enacted, That all and every the Powers, Authorities, Provisions, and Matters contained in the said recited Act of the Thirteenth Year of the Reign of His said late Majesty King *George* the Third, relating to the Examination of Witnesses in *India*, shall be and the same are, with reference to all Actions in any of Her Majesty's Courts of Law at *Dublin*, hereby extended to all Colonies, Islands, Plantations, and Places under the Dominion of Her Majesty in Foreign Parts, and to the Judges of the several Courts therein, and to all Actions depending in any of Her Majesty's Courts of Law at *Dublin*, in what Place or County soever the Cause of Action may have arisen, and whether the same may have arisen within the Jurisdiction of the Court to the Judges whereof the Writ or Commission may be directed, or elsewhere, when it shall appear that the Examination of Witnesses under a Writ or Commission issued in pursuance of the Authority hereby given will be necessary or conducive to the due Administration of Justice in the Matter wherein such Writ shall be applied for.

Powers of the recited Acts extended to all Actions in the Courts at Dublin, when Examination by Commission shall appear necessary.

LXVII. And be it enacted, When any Writ or Commission shall issue under the Authority of the said last-mentioned Act and of this Act, or of the Power herein-before given by this Act, the Judge or Judges to whom the same shall be directed shall have the like Power to compel and enforce the Attendance and Examination of Witnesses as the Court whereof they are Judges does or may possess for that Purpose in Suits or Causes depending in such Court.

Judges to whom the Commission is directed empowered to enforce the Attendance of Witnesses.

LXVIII. And be it enacted, That the Costs of every Writ or Commission to be issued under the Authority of the said last-mentioned Act and of this Act, or of the Power herein-before given by this Act, in any Action at Law depending in either of the said Courts at *Dublin*, and of the Proceedings thereon, shall be in the Discretion of the Court issuing the same.

Costs of Writs to be in the Discretion of the Court.

LXIX. And be it enacted, That it shall be lawful to and for each of the said Courts at *Dublin*, and the several Judges thereof, in every Action depending in such Court, upon the Application of any of the Parties to such Suit, to order the Examination on Oath, upon Interrogatories or otherwise, before the Prothonotary or Clerk of the Pleas respectively of the said Court, or other Person or Persons to be named in such Order, of any Witnesses within the Jurisdiction of the Court where the Action shall be depending, or to order a Commission to issue for the Examination of Witnesses on Oath at any Place or Places out of such Jurisdiction, by Interrogatories or otherwise, and by the same or any subsequent Order or Orders to give all such Directions touching the Time, Place, and Manner of such Examination, as well within the Jurisdiction of the Court wherein the Action shall be depending as without, and all other Matters and Circumstances connected with such Examinations as may appear reasonable and just.

Courts at Dublin may order the Examination of Witnesses within their Jurisdiction by an Officer of the Court, or may order a Commission for that Purpose out of their Jurisdiction.

Compelling Attendance of Witnesses, or Production of Documents.

LXX. And be it enacted, That when any Rule or Order shall be made for the Examination of Witnesses within the Jurisdiction of the Court wherein the Action shall be depending by Authority of this Act, it shall be lawful for the Court, or any Judge thereof, in and by the first Rule or Order to be made in the Matter, or any subsequent Rule or Order, to command the Attendance of any Person to be named in such Rule or Order for the Purpose of being examined, or the Production of any Writings or other Documents to be mentioned in such Rule or Order, and to direct the Attendance of any such Person to be at his own Place of Abode or elsewhere, if necessary or convenient so to do; and the wilful Disobedience of any such Rule or Order shall be deemed a Contempt of Court, and Proceedings may be thereupon had by Attachment (the Judge's Order being made a Rule of Court before or at the Time of the Application for an Attachment), if, in addition to the Service of the Rule or Order, an Appointment of the Time and Place of Attendance in obedience thereto, signed by the Person or Persons appointed to take the Examination, or by One or more of such Persons, shall be also served 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 for Expences and Loss of Time as upon Attendance at a Trial: 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 compellable to produce at a Trial of the Cause.

Disobedience to be deemed a Contempt of Court.

Payment of Expences.

Proviso as to Production of Documents.

Prisoners may be removed by Habeas corpus for Examination.

LXXI. And be it enacted, That it shall be lawful for any Sheriff, Gaoler, or other Officer having the Custody of any Prisoner, to take such Prisoner for Examination under the Authority of this Act, by virtue of a Writ of Habeas corpus to be issued for that Purpose, which Writ shall and may be issued by any Court or Judge under such Circumstances and in such Manner as such Court or Judge may now by Law issue the Writ commonly called a Writ of Habeas corpus ad testificandum.

Examinations of Witnesses to be taken upon Oath.

LXXII. And be it enacted, That it shall be lawful for all and every Person authorized to take the Examination of Witnesses, by any Rule, Order, Writ, or Commission made or issued in pursuance of this Act, and he and they are hereby authorized and required, to take all such Examinations upon the Oath of the Witnesses, or Affirmation in Cases where Affirmation is allowed by Law instead of Oath, to be administered by the Person so authorized, or by any Judge of the Court wherein the Action shall be depending; 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 and may be indicted and prosecuted for such Offence in the County wherein such Evidence shall be given, or in the County of *Dublin*, if the Evidence be given out of *Ireland*.

Persons giving false Evidence to be deemed guilty of Perjury.

Persons appointed for taking Examinations

LXXIII. And be it enacted, That it shall and may be lawful for the Prothonotary, or any other Persons to be named in any such Rule or Order as aforesaid for taking any Examination in pursuance thereof, and

and he and they are hereby required, to make, if need be, a special Report to the Court touching such Examination, and the Conduct or Absence of any Witness or other Person thereon or relating thereto; and the Court is hereby authorized to institute such Proceedings and make such Order and Orders upon such Report as Justice may require, and as may be instituted and made in any Case of Contempt of the Court.

to report to the Court upon the Conduct or Absence of Witnesses if necessary.

LXXIV. And be it enacted, That the Costs of every Rule or Order to be made for the Examination of Witnesses under any Commission or otherwise by virtue of this Act, and of the Proceedings thereupon, shall (except in the Case herein-before provided for) be Costs in the Cause, unless otherwise directed either by the Judge making such Rule or Order, or by the Judge before whom the Cause may be tried, or by the Court.

Costs of the Order for Examination may be made Costs in the Cause.

LXXV. And be it enacted, That no Examination or Deposition to be taken by virtue of this Act shall be read in Evidence at any Trial without the Consent of the Party against whom the same may be offered, unless it shall appear to the Satisfaction of the Judge that the Examinant or Deponent is beyond the Jurisdiction of the Court, or dead, or unable from permanent Sickness or other permanent Infirmity to attend the Trial; in all or any of which Cases the Examinations and Depositions, certified under the Hand of the Commissioners, Master, Prothonotary, or other Person taking the same, shall and may, without Proof of the Signature to such Certificate, be received and read in Evidence, saving all just Exceptions.

Restriction as to the reading of Examinations or Depositions without Consent of the Party.

LXXVI. And whereas by an Act passed in the Parliament of *Ireland* in the Ninth Year of the Reign of His late Majesty King *George* the Second, intituled *An Act for the more effectual assigning of Judgments, and for the more speedy Recovery of Rents by Distress*, it was thereby, amongst other things, enacted, that from and after the First Day of the then next *Easter* Term, where any Conuzee or Conuzees of a Judgment or Judgments, Statute Staple or Statute Merchant, his, her, or their Executors, should assign the same to any Person or Persons whatsoever, such Conuzee or Conuzees, his, her, or their Executors or Administrators, should also perfect a Memorial of such Assignment under his, her, or their Hand and Seal, upon Parchment or Vellum, attested by Two or more credible Witnesses, which Memorial should contain the Name or Names and Addition of the Person or Persons assigning such Judgment or Judgments, Statute Staple or Statute Merchant, the Name or Names of the Person or Persons to whom the same should be assigned, and the Sum or Sums of Money mentioned in such Assignment or Assignments to be remaining due and unsatisfied upon such Judgment or Judgments, Statute Staple or Statute Merchant, with the Day and Year when such Assignment or Assignments was or were perfected, and that One of the Witnesses to such Memorial, who should be a Witness to the Assignment of such Judgment or Judgments, Statute Staple or Statute Merchant, should make an Affidavit at the Foot of such Memorial of the true Perfection of such Assignment and Memorial, before the respective Officer or Officers, where such Judgment or Judgments, Statute Staple

Further Powers granted for taking Affidavits under 9 G. 2. (I.) at the Foot of Memorials of Assignments of Judgments in Ireland.

Staple or Statute Merchant, were or should be entered, his or their legal Deputy or Deputies, or before any One of the Judges of the Four Courts in *Dublin*, or before any One of the Judges of His Majesty's Courts at *Westminster*, who were thereby respectively empowered to take such Affidavit or Affidavits: And whereas it is deemed expedient that further Facilities should be given for taking such Affidavits as aforesaid; be it enacted, That it shall be lawful for the said Judges of the Superior Courts of Law at *Dublin*, or any Eight or more of them as aforesaid, from Time to Time to appoint any Person or Persons as Commissioners for taking such Affidavits as aforesaid, and to revoke any such Appointment from Time to Time, and that such Persons so to be appointed, and until some such Appointment shall be made, the several Commissioners now or at any Time hereafter to be appointed by Her Majesty's respective Courts of Law in *Ireland* for taking Affidavits in *England*, *Scotland*, or *Ireland*, shall and may and they are hereby respectively authorized and empowered within their respective Districts to take the Affidavit or Affidavits prescribed by the herein-before recited Act at Foot of the Memorial or Memorials of the Assignment of Judgments in *Ireland*, subject to such Rules or Direction as by the said Judges, or any Eight or more of them as aforesaid, shall from Time to Time be made in that Behalf; and such Affidavit or Affidavits so taken (being conformable in every respect to the Requisites prescribed by the said recited Act) shall have the same Force and Effect, and shall be received and enrolled in the respective Office or Offices where such Judgment or Judgments are or shall be entered.

Construction of Act.

LXXVII. And be it enacted, That this Act shall extend to Aliens, Denizens, and Women, both to make them subject thereto and to entitle them to all the Benefits given thereby; and all Powers given to or Duties directed to be performed by the Lord Chancellor may be performed by the Lord Keeper or Lords Commissioners of the Great Seal; and all Powers given to or Duties directed to be performed by the Court of Commissioners of Bankrupt may be performed by any One of the Commissioners of the same Court; and that whenever this Statute hath used Words importing the Singular Number or the Masculine Gender only, it shall be understood to include several Matters as well as one Matter, and several Persons as well as one Person, and Females as well as Males, and Bodies Corporate as well as Individuals, unless it be otherwise specially provided, or there be something in the Subject or Context repugnant to such Construction; and that this Act shall not extend to *Great Britain*, except where expressly mentioned.

Persons making false Oath or Declaration liable to the Penalties of Perjury.

LXXVIII. And be it enacted, That if any Prisoner or other Person taking an Oath under the Provisions of this Act shall wilfully forswear and perjure himself in any Oath to be taken under this Act, and shall be lawfully convicted thereof, the Person so offending shall suffer such Punishment as may by Law be inflicted on Persons convicted of wilful and corrupt Perjury; and that in all Cases wherein by this Act an Oath is required the solemn Affirmation or Declaration of any

any Person being a Quaker, or other Person by Law allowed to affirm or declare, shall and may be accepted and taken in lieu thereof; and that every Person making such Affirmation or Declaration, who shall be convicted of wilful false Affirmation or Declaration, shall incur and suffer such and the same Penalties as are inflicted and imposed upon Persons convicted of wilful and corrupt Perjury.

Act may be altered.

LXXIX. And be it enacted, That this Act may be amended, altered, or repealed during this Session of Parliament.

Commencement of Act.

LXXX. And be it enacted, That this Act shall, as to all Matters not otherwise provided for, commence and come into operation on the First Day of *November* One thousand eight hundred and forty.

SCHEDULES to which this Act refers.

SCHEDULE (A.)

Memorandum to be subscribed to the Writ of Capias.

THIS Writ is to be executed within One Calendar Month from the Date thereof, including the Day of such Date, and not afterwards.

A Warning to the Defendant.

If the Defendant, having given Bail on the Arrest, shall omit to put in Special Bail, as required, the Plaintiff may proceed against the Sheriff, or on the Bail Bond.

Endorsements to be made on the Writ.

BAIL for Pounds, by Order of [*naming the Judge making the Order*]. Dated this Day of

This Writ was issued by *E. F.* of Attorney for the Plaintiff [*or* Plaintiffs] within named, who resides at .

Or,

This Writ was issued in Person by the Plaintiff within named, who resides at [*mention the City, Town, or Parish, and also the Name of the Hamlet, Street, and Number of the House of the Plaintiff's Residence, if any such there be*].

SCHEDULE (B.)

Name, &c. of the Person giving the Warrant of Attorney.	Name, &c. of Person for whom given.	Number.	Date of Execution.	Date of Filing.	Sum for which given.	Defeasance.
A. B. of Manufacturer.	*C. D.* of Merchant.	No. 1.	Jan. 1, 183 .	Jan. 10.	£1,000.	To secure £500 payable, &c.

LONDON: Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1840.