

ANNO VICESIMO QUARTO

VICTORIÆ REGINÆ.

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CAP. XI.

An Act to afford Facilities for the better Ascertainment of the Law of Foreign Countries when pleaded in Courts within Her Majesty's Dominions. [17th *May* 1861.]

WHEREAS an Act was passed in the Twenty-second and Twenty-third Years of Her Majesty's Reign, intituled *An Act to afford Facilities for the more certain Ascertainment of the Law administered in one Part of Her Majesty's Dominions when pleaded in the Courts of another Part thereof:* And whereas it is expedient to afford the like Facilities for the better Ascertainment, in similar Circumstances, of the Law of any Foreign Country or State with the Government of which Her Majesty may be pleased to enter into a Convention for the Purpose of mutually ascertaining the Law of such Foreign Country or State when pleaded in Actions depending in any Courts within Her Majesty's Dominions and the Law as administered in any Part of Her Majesty's Dominions when pleaded in Actions depending in the Courts of such Foreign Country or State: 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 22 & 23 Vict. c. 63.

present Parliament assembled, and by the Authority of the same, as follows; viz.,

Superior Courts within Her Majesty's Dominions may remit a Case, with Queries, to a Court of any Foreign State with which Her Majesty may have made a Convention for that Purpose, for Ascertainment of Law of such State.

1. If, in any Action depending in any of the Superior Courts within Her Majesty's Dominions it shall be the Opinion of such Court that it is necessary or expedient, for the Disposal of such Action, to ascertain the Law applicable to the Facts of the Case as administered in any Foreign State or Country with the Government of which Her Majesty shall have entered into such Convention as aforesaid, it shall be competent to the Court in which such Action may depend to direct a Case to be prepared setting forth the Facts as these may be ascertained by Verdict of Jury or other Mode competent, or as may be agreed upon by the Parties, or settled by such Person or Persons as may have been appointed by the Court for that Purpose in the event of the Parties not agreeing; and upon such Case being approved of by such Court or a Judge thereof, such Court or Judge shall settle the Questions of Law arising out of the same on which they desire to have the Opinion of another Court, and shall pronounce an Order remitting the same, together with the Case, to such Superior Court in such Foreign State or Country as shall be agreed upon in said Convention, whose Opinion is desired upon the Law administered by such Foreign Court as applicable to the Facts set forth in such Case, and requesting them to pronounce their Opinion on the Questions submitted to them; and upon such Opinion being pronounced, a Copy thereof, certified by an Officer of such Court, shall be deemed and held to contain a correct Record of such Opinion.

Court in which Action depends to apply such Opinion to the Facts set forth in Cases, &c.

2. It shall be competent to any of the Parties to the Action, after having obtained such certified Copy of such Opinion, to lodge the same with the Officer of the Court within Her Majesty's Dominions in which the Action may be depending who may have the official Charge thereof, together with a Notice of Motion setting forth that the Party will, on a certain Day named in such Notice, move the Court to apply the Opinion contained in such certified Copy thereof to the Facts set forth in the Case herein-before specified, and the said Court shall thereupon, if it shall see fit, apply such Opinion to such Facts, in the same Manner as if the same had been pronounced by such Court itself upon a Case reserved for Opinion of the Court, or upon Special Verdict of a Jury; or the said last-mentioned Court shall, if it think fit, when the said Opinion has been obtained before Trial, order such Opinion to be submitted to the Jury with the other Facts of the Case as conclusive Evidence of the Foreign Law therein stated, and the said Opinion shall be so submitted to the Jury: Provided always, that if after having obtained such certified Copy the Court shall not be satisfied that the Facts had been properly understood

understood by the Foreign Court to which the Case was remitted, or shall on any Ground whatsoever be doubtful whether the Opinion so certified does correctly represent the Foreign Law as regards the Facts to which it is to be applied, it shall be lawful for such Court to remit the said Case, either with or without Alterations or Amendments, to the same or to any other such Superior Court in such Foreign State as aforesaid, and so from Time to Time as may be necessary or expedient.

Courts in Her Majesty's Dominions may pronounce Opinion on Case remitted by a Foreign Court.

3. If in any Action depending in any Court of a Foreign Country or State with whose Government Her Majesty shall have entered into a Convention as above set forth, such Court shall deem it expedient to ascertain the Law applicable to the Facts of the Case as administered in any Part of Her Majesty's Dominions, and if the Foreign Court in which such Action may depend shall remit to the Court in Her Majesty's Dominions whose Opinion is desired a Case setting forth the Facts and the Questions of Law arising out of the same on which they desire to have the Opinion of a Court within Her Majesty's Dominions, it shall be competent to any of the Parties to the Action to present a Petition to such last-mentioned Court, whose Opinion is to be obtained, praying such Court to hear Parties or their Counsel, and to pronounce their Opinion thereon in Terms of this Act, or to pronounce their Opinion without hearing Parties or Counsel; and the Court to which such Petition shall be presented shall consider the same, and, if they think fit, shall appoint an early Day for hearing Parties or their Counsel on such Case, and shall pronounce their Opinion upon the Questions of Law as administered by them which are submitted to them by the Foreign Court; and in order to their pronouncing such Opinion they shall be entitled to take such further Procedure thereupon as to them shall seem proper, and upon such Opinion being pronounced a Copy thereof, certified by an Officer of such Court, shall be given to each of the Parties to the Action by whom the same shall be required.

Interpretation of Terms.

4. In the Construction of this Act the Word "Action" shall include every judicial Proceeding instituted in any Court, Civil, Criminal, or Ecclesiastical; and the Words "Superior Courts" shall include, in *England*, the Superior Courts of Law at *Westminster*, the Lord Chancellor, the Lords Justices, the Master of the Rolls, or any Vice-Chancellor, the Judge of the Court of Admiralty, the Judge Ordinary of the Court for Divorce and Matrimonial Causes, and the Judge of the Court of Probate; in *Scotland*, the High Court of Justiciary, and the Court of Session, acting by either of its Divisions; in *Ireland*, the Superior Courts of Law at *Dublin*, the Master

Master of the Rolls, and the Judge of the Admiralty Court; and in any other Part of Her Majesty's Dominions, the Superior Courts of Law or Equity therein; and in a Foreign Country or State, any Superior Court or Courts which shall be set forth in any such Convention between Her Majesty and the Government of such Foreign Country or State.

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1861.