

ANNO PRIMO & SECUNDO

GULIELMI IV. REGIS.

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CAP. XXXI.

An Act to improve the Administration of Justice in *Ireland*. [5th *October* 1831.]

WHEREAS by an Act passed in the First Year of the Reign of His present Majesty, intituled *An Act for the more effectual Administration of Justice in* England *and* Wales, and also by an Act passed in the last Session of Parliament, intituled *An Act to amend an Act of the last Session, for the better Administration of Justice, so far as relates to the Essoign and General Return Days of each Term, and to substitute other Provisions in lieu thereof, and to declare the Law with regard to the Duration of the Terms in certain Cases*, certain specific Days are fixed for the Commencement and Termination of each of the Law Terms respectively in that Part of the United Kingdom called *England*, and other Regulations are made for the Purpose of facilitating Proceedings in certain Actions; and it is expedient that similar Provisions should be made with respect to *Ireland*; be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That in the Year of our Lord One thousand eight hundred and thirty-two, and afterwards, *Hilary* Term shall begin on the Eleventh and end on the Thirty-first Day of *January*; *Easter* Term shall begin on the Fifteenth Day of *April* and end on the Eighth Day of *May*; *Trinity* Term shall begin on the Twenty-second Day of *May* and end on the Twelfth Day of *June*; and *Michaelmas* Term shall begin on the Second and end on the Twenty-fifth Day of *November*; and that in case any Day heretofore mentioned for the Commencement or the End of any Term shall happen to fall on a *Sunday*, then the *Monday* next after such Day shall be deemed and taken to be the first or last Day of Term respectively; provided that if the whole or any Number of the Days intervening between the *Thursday* before and the *Wednesday* next after *Easter Day* shall fall within *Easter* Term, such Days shall be taken to be a Part of such Term, but there shall not be any Sitting in Banc on any of such intervening Days, and the Term shall in such

1 W. 4. c. 70.

1 W. 4. c. 3.

Alteration of Terms.

Case be prolonged and continue for such Number of Days of Business as shall be equal to the Number of intervening Days before mentioned, exclusive of *Easter Day*, and the Commencement of the ensuing *Trinity* Term shall in such Case be postponed, and its Continuance prolonged for an equal Number of Days of Business.

When Writs to be returnable.

II. And be it enacted, That all Writs now usually returnable before any of His Majesty's Courts of King's Bench, Common Pleas, or Exchequer in *Ireland* respectively on General Return Days, that shall be made returnable after the First Day of *January* One thousand eight hundred and thirty-two, may be made returnable on the Third Day exclusive before the Commencement of each Term, or on any Day, not being *Sunday*, between that Day and the Third Day exclusive before the last Day of Term; and the Day for Appearance shall as heretofore be the Third Day after such Return exclusive of the Day of the Return, or in case such Third Day shall fall on a *Sunday*, then on the Fourth Day after such Return exclusive of such Day of Return.

Limitation of Time for Nisi Prius Sittings.

III. And be it further enacted, That when the Alteration of the Terms herein-before mentioned shall take effect, not more than Twenty-four Days, exclusive of *Sundays*, after any *Hilary*, *Trinity*, and *Michaelmas* Term, nor more than Six Days, exclusive of *Sundays*, after any *Easter* Term, to be reckoned consecutively immediately after such Terms, shall be appropriated to Sittings in *Dublin* for the Trial of Issues of Fact arising in any of His Majesty's Courts of King's Bench, Common Pleas, or Exchequer; provided that if any Trial at Bar shall be directed by any of the said Courts, it shall be competent to the Judges of such Court to appoint such Day or Days for the Trial thereof as they shall think fit; and the Time so appointed, if in Vacation, shall for the Purpose of such Trial be deemed and taken to be a Part of the preceding Term: Provided also, that a Day or Days may be specially appointed at any Time, not being within such Twenty-four Days or Six Days respectively, for the Trial of any Cause at Nisi Prius, with the Consent of the Parties thereto, their Counsel or Attornies.

Judgments to be pronounced in all Trials for Felonies upon Record during the Sittings, save as herein excepted.

IV. And be it further enacted, That upon all Trials for Felonies or Misdemeanors upon any Record of the Court of King's Bench Judgment may be pronounced during the Sittings or Assizes by the Judge before whom the Verdict shall be taken, as well upon any Person who shall have suffered Judgment by Default or Confession upon the same Record, as upon any Person who shall be tried and convicted, whether any such Person respectively be present or not in Court, excepting only where the Prosecution shall be by Information filed by Leave of the Court of King's Bench, or such Cases of Information filed by His Majesty's Attorney General wherein the Attorney General shall pray that the Judgment may be postponed; and the Judgment so pronounced shall be indorsed upon the Record of Nisi Prius, and afterwards entered upon the Record in Court, and shall be of the same Force and Effect as a Judgment of the Court, unless the Court shall within Six Days after the Commencement of the ensuing Term grant a Rule to show Cause why a new Trial should not be had or the Judgment amended; and it shall be lawful for the Judge before whom the Trial shall be had, either

either to issue an immediate Order or Warrant for committing the Defendant in Execution, or to respite the Execution of the Judgment, upon such Terms as he shall think fit, until the Sixth Day of the ensuing Term, and in case Imprisonment shall be Part of the Sentence, to order the Period of Imprisonment to commence on the Day on which the Party shall be actually taken to and confined in Prison.

Judges may make Rules relative to the Practice of all the Courts.

V. And be it further enacted, That in all Cases relating to the Practice of any of the Courts of King's Bench, Common Pleas, or Exchequer, in Matters over which the said Courts have a common Jurisdiction, or of or relating to the Practice of the Court of Error, it shall be lawful for the Judges of the said Courts jointly, or any Nine or more of them, including the Chief of each Court, to make general Rules and Orders for regulating the Proceedings of all the said Courts, which said Rules and Orders so made shall be observed in all of the said Courts; and no general Rule or Order respecting such Matters shall be made in any Manner except as aforesaid.

Justification of Bail before Judge in Chambers.

VI. And be it further enacted, That Bail may be justified before a Judge in Chambers, or in some other convenient Place to be by him appointed, as well in Term as in Vacation, and whether the Defendant is actually in Custody or not.

Render in Discharge of Bail, Defendant not being in Custody.

VII. And be it further enacted, That a Defendant who shall have been held to Bail upon any Mesne Process issued out of any of His Majesty's Superior Courts of Record may be rendered in Discharge of his Bail, either to the Prison of the Court out of which such Process issued, according to the Practice of such Court, or to the Common Gaol of the County in which he was so arrested; and the Render to the County Gaol shall be effectual in the Manner following; (that is to say,) the Defendant or his Bail, or One of them, shall for the Purpose of such Render obtain an Order of a Judge of One of His Majesty's Superior Courts of *Dublin*, and shall lodge such Order with the Gaoler of such County Gaol, and a Notice in Writing of the Lodgment of such Order, and of the Defendant's being actually in Custody of such Gaoler by virtue of such Order, signed by the Defendant or the Bail, or either of them, or by the Attorney or Agent of any or either of them, shall be delivered to the Plaintiff's Attorney or Agent; and the Sheriff or other Person responsible for the Custody of Debtors in such County Gaol shall on such Render so perfected be duly charged with the Custody of such Defendant, and the said Bail shall be thereupon wholly exonerated from Liability as such.

Render in Discharge of Bail, where Defendant is in Custody.

VIII. And be it further enacted, That a Defendant who shall hereafter be in Custody of the Gaoler of the Gaol of any County, or County of a City, or County of a Town, by virtue of any Proceeding out of any of His Majesty's Superior Courts of Record, may be rendered in Discharge of his Bail in any other Action depending in any of the said Courts in the Manner herein-before provided for a render in Discharge of Bail; and the Keeper of such Gaol, or the Sheriff or other Person responsible for the Custody of Debtors as aforesaid, shall on such Render be duly charged with the Custody of such Defendant, and the said Bail shall be thereupon wholly exonerated from Liability as such.

IX. And

Times of holding Quarter Sessions.

IX. And be it enacted, That in the Year of our Lord One thousand eight hundred and thirty-two, and afterwards, the General or Quarter Sessions of the Peace in and for every County (save and except the County of *Cork*) shall be held at the following Times; (that is to say,) the *Easter* Sessions on any of the Fourteen Days next after the Twenty-fifth Day of *March*; the Summer Sessions on any Day between the Fourth Day and the Twelfth Day next after the last Day of *Trinity* Term, both Days inclusive; the *October* Sessions on any of the Fourteen Days next after the Eighth Day of *October*; and the *Hilary* Sessions on any of the Fourteen Days next after the Twenty-sixth Day of *December*; and that all Acts, Matters, and Things done, performed, and transacted at the Times appointed by this Act for the holding of the General or Quarter Sessions of the Peace shall be as valid and binding to all Intents and Purposes as if the same had been done, performed, and transacted at General Quarter Sessions of the Peace holden at the Times by Law limited for the holding thereof before the passing of this Act.

Repeal of 1&2G.4.c.62.

X. And be it further enacted, That an Act passed in the First and Second Years of His late Majesty's Reign, intituled *An Act to regulate the Times for holding the General Sessions of the Peace in the several Counties in* Ireland, shall be and the same is hereby repealed.

Future Sessions to be appointed at the Hilary Sessions in 1832, and every subsequent Year.

XI. And be it enacted, That it shall and may be lawful for the Chairman of the County of *Dublin*, and the Assistant Barrister in each County (except the County of *Cork*), at the General or Quarter Sessions to be held in such County next before each *Hilary* Term, to fix and appoint the Times for holding the next Four Sessions, of which Times due Notice shall be posted by the Clerk of the Peace, as now by Law required to be done, on the First Day of *February* in each Year, and also Six Weeks before the Day of holding each Sessions.

Landlords to recover Possession of Lands, &c. after Notice of Ejectment.

XII. And whereas Landlords to whom a Right of Entry into or upon any Lands, Tenements, or Hereditaments may accrue during or immediately after *Hilary* and *Trinity* Terms respectively, are at present unable to prosecute Ejectments against their Tenants so as to try the same at the Assizes immediately ensuing, whereby much Delay is occasioned in the Recovery of the Possession of Lands and Tenements wrongfully withheld by Tenants against their Landlords; be it therefore enacted, That in all Actions of Ejectment hereafter to be brought in any of His Majesty's Courts at *Dublin*, by any Landlord against his Tenant, or against any Person claiming through or under such Tenant, for the Recovery of any Lands, Tenements, or Hereditaments, where the Tenancy shall expire or the Right of Entry into or upon such Lands, Tenements, or Hereditaments shall accrue to such Landlord in or after *Hilary* or *Trinity* Terms respectively, it shall be lawful for the Lessor of the Plaintiff in any such Action, at any Time within Ten Days after such Tenancy shall expire or Right of Entry accrue as aforesaid, to serve a Declaration in Ejectment, entitled of the Day next after the Day of the Demise in such Declaration, whether the same shall be in Term or in Vacation, with a Notice thereunto subjoined requiring the Tenant or Tenants in Possession to appear and plead thereto within Ten Days in the Court in which such Action may be brought; and Proceedings shall be had on such Declaration, and Rules to plead entered and given, in

such and the same Manner, as nearly as may be, as if such Declaration had been duly served before the preceding Term: Provided always, that no Judgment shall be signed against the casual Ejector until Default of Appearance and Plea within such Ten Days, and that at least Six clear Days Notice of Trial shall be given to the Defendant before the Commission Day of the Assizes at which such Ejectment is intended to be tried; provided also, that any Defendant in such Action may at any Time before the Trial thereof apply to a Judge of either of His Majesty's Superior Courts, by Summons in the usual Way, for Time to plead, or for staying or setting aside the Proceedings, or for postponing the Trial until the next Assizes; and that it shall be lawful for the Judge, in his Discretion, to make such Order in the said Cause as to him shall seem expedient.

Declaration to be entitled specially.

XIII. And be it further enacted, That in making up the Record of the Proceedings of any such Declaration in Ejectment it shall be lawful to entitle such Declaration specially of the Day next after or any other Day after the Day of the Demise therein, whether such Day shall be in Term or in Vacation; and no Judgment thereupon shall be avoided or reversed only of such special Title.

Writs of Possession may issue on Judges Certificate, &c.

XIV. And be it further enacted, That in all Cases of Trials of Ejectment at Nisi Prius, when a Verdict shall be given for the Plaintiff, or the Plaintiff shall be nonsuited for Want of the Defendant's Appearance to confess Lease, Entry or Ouster, and where no Bill of Exception or written Objection signed by the Defendant's Counsel, or no Certificate of such Counsel that the Defendant has a good Defence in Equity, shall have been tendered to the Judge before whom the Cause shall be tried, it shall be lawful for such Judge to certify his Opinion on the Back of the Record that a Writ of Possession ought to issue immediately; and upon such Certificate a Writ of Possession may be issued forthwith, and the Costs may be taxed, and Judgment signed and executed afterwards at the usual Time, as if no such Writ had issued: Provided always, that such Writ, instead of reciting a Recovery by Judgment in the Form now in use, shall recite shortly that the Cause came on for Trial at Nisi Prius at such a Time and Place and before such a Judge (naming the Time, Place, and Judge,) and that thereupon the said Judge certified his Opinion that a Writ of Possession ought to issue immediately.

Writs of Inquiry returnable on any Day named in Writ.

XV. And be it enacted, That any Writ of Inquiry of Damages to be issued in or by any of the said Courts, by whatever Form of Process the Action may have been commenced, may be made returnable and be returned on any Day certain, in Term or Vacation, to be named in such Writ, and such Writ shall be as valid and effectual as if the same had been returnable according to the Course of the Common Law, and thereupon at the Return thereof a Rule for Judgment may be given, Costs taxed, final Judgment signed, and Execution issued forthwith, unless the Sheriff or other Officer before whom the same may be executed shall certify under his Hand upon such Writ that Judgment ought not to be signed until the Defendant shall have had an Opportunity to apply to the Court to set aside the Execution of such Writ, or One of the Judges of the said Courts shall think fit to order the Judgment to be stayed until a Day to be named in such Order: Provided always, that in case the signing of

Judgment on such Writ shall be postponed by reason of such Certificate or Order, or by the Choice of the Plaintiff, or otherwise, and Judgment shall afterwards be signed thereon, such Judgment shall be entered of Record as of the Day of the Return of such Writ, unless the Court shall otherwise direct; and provided always, that Notice of the holding of such Inquiry shall have been given to the Defendant, or if the Defendant shall have appeared by Attorney, to his Attorney in said Cause, Eight Days at least before the Execution of such Writ of Inquiry.

On Certificate of Judge, after Verdict or Nonsuit, Judgment and Execution may be entered forthwith.

XVI. And be it further enacted, That in all Actions brought in any of the said Courts, by whatever Form of Process the same may be commenced, it shall be lawful for the Judge before whom any Issue joined in such Action shall be to be tried, in case the Plaintiff or Demandant therein shall become Nonsuit, or a Verdict shall be given for the Plaintiff or Demandant, Defendant or Tenant, and when no Exception or legal Objection in Writing, and signed by Counsel, shall be taken to the Opinion of such Judge, to certify under his Hand on the Back of the Record, at any Time before the End of the Sittings or Assizes, that in his Opinion Execution ought to issue in such Action forthwith, or at some Day to be named in such Certificate, and subject, or not, to any Condition or Qualification, and in case of a Verdict for the Plaintiff, then either for the Whole or for any Part of the Sum found by such Verdict; in all which Cases a Rule for Judgment may be given, Costs taxed, and Judgment signed forthwith, and Execution may be issued forthwith or afterwards, according to the Terms of such Certificate, on any Day in Vacation or Term; and the Postea, with such Certificate as a Part thereof, shall and may be entered of Record as of the Day on which the Judgment shall be signed, although the Writ of Distringas Juratores, or Habeas Corpora Juratorum, may not be returnable until after such Day: Provided always, that it shall be lawful for the Party entitled to such Judgment to postpone the signing thereof.

Judgment so signed may be recorded as the Judgment of the Court;

but the Court may order it to be vacated.

XVII. And be it further enacted, That every Judgment to be signed by virtue of this Act may be entered and recorded as the Judgment of the Court wherein the Action shall be depending, although the Court may not be sitting on the Day of the signing thereof; and every Execution issued by virtue of this Act shall and may bear Teste on the Day of issuing thereof; and such Judgment and Execution shall be as valid and effectual as if the same had been signed and recorded and issued according to the Course of the Common Law: Provided always, that notwithstanding any Judgment signed or recorded or Execution issued by virtue of this Act, it shall be lawful for the Court in which the Action shall have been brought to order such Judgment to be vacated and Execution to be stayed or set aside, and to enter an Arrest of Judgment, or grant a new Trial or new Writ of Inquiry, as Justice may appear to require; and thereupon the Party affected by such Writ of Execution shall be restored to all that he may have lost thereby, in such Manner as upon the Reversal of a Judgment by Writ of Error, or otherwise, as the Court may think fit to direct.

Attendance of Taxing Officer.

XVIII. Provided always, and be it further enacted, That no Taxing Officer of any of the said Courts shall, for the Purpose of taxing

Costs on any Judgment to be signed by virtue of this Act, be compelled to attend at any Time between the last Day of *August* and the Twenty-first Day of *October* in any Year.

Repeal of 1&2G.4.c.59. s. 50. as to the Time for Discharge of Uncertificated Bankrupts.

XIX. And be it enacted, That so much of an Act passed in the First and Second Years of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for the Relief of Insolvent Debtors in* Ireland, as enacts that no Prisoner against whom any Commission of Bankrupt shall have issued and shall remain in force, and who shall not have obtained a Certificate of his or her Conformity to the several Statutes concerning Bankrupts under such Commission, shall be entitled to be discharged by virtue of that Act from any Debt for which such Prisoner shall be detained in Custody, and which might have been proved under such Commission, unless such Prisoner shall have been detained in Prison for the Space of Three Years before the Time when such Prisoner shall apply for his or her Discharge under that Act, shall be and the same is hereby repealed.

Persons who have been declared bankrupt and not obtained their Certificates shall not be entitled the Benefit of this Act within Three Years, except in certain Cases.

XX. Provided always, and be it enacted, That no Person petitioning the Court for Relief of Insolvent Debtors for Relief under any Act relating to Insolvent Debtors in *Ireland*, who shall have been duly declared bankrupt before the Commencement of his or her Imprisonment under any Commission remaining in force, and shall not have obtained his or her Certificate under such Commission, shall be entitled to the Benefit of any such Act within the Space of Three Years after such Declaration of Bankruptcy, unless Three Fourths in Number and Value of the Creditors against whom such Person shall seek to be discharged by virtue of such Act or Acts shall signify their Assent to such Discharge, or it shall be made to appear to the Satisfaction of such Court, or of a Commissioner thereof on his Circuit, that such Person has since such Declaration of Bankruptcy endeavoured by Industry and Frugality to pay all just Demands upon him or her, and has incurred no unnecessary Expence, and that the Debts which such Person has incurred subsequent to such Declaration of Bankruptcy have been necessarily incurred for the Maintenance of such Person or his or her Family, or that the Insolvency of such Person has arisen from Misfortune, or from Inability to acquire Subsistence for himself or herself, and his or her Family.

Discharge may extend to Process for Contempt in Nonpayment of Money, and to Costs incurred by Creditor.

XXI. And be it enacted, That the Discharge of any Prisoner under the Authority of any Act which now is or may hereafter be in force for the Relief of Insolvent Debtors shall and may extend to all Process issuing from any Court of Law or Equity for any Contempt of such Court for Nonpayment of Money or of Costs, Charges, or Expences in any such Court; and that in such Case such Discharge shall be deemed to extend to all Costs which such Prisoner shall be liable to pay in consequence or by reason of such Contempt, or on purging the same; and that every such Discharge as to any Debt or Damages of any Creditor of any such Prisoner shall be deemed to extend also to all Costs incurred by such Creditor before the filing of such Prisoner's Schedule in any Action or Suit brought by such Creditor against such Prisoner for the Recovery of the same; and that all Persons as to whose Demands for any such Costs, Money, or Expences any such Prisoner shall be so discharged, shall be deemed and

and taken to be Creditors of such Prisoner in respect thereof, and entitled to the Benefits of all the Provisions made for Creditors by any Act now in force or hereafter to be in force relating to Insolvent Debtors; subject nevertheless to such ascertaining of the Amount of the said Demands as may be had by Taxation or otherwise, and to such Examination thereof as may be by any such Act provided in respect to Claims to a Dividend upon the Estate and Effects of such Insolvent.

Discharge of Insolvent where Process of Contempt is for Performance or Nonperformance of an Act.

XXII. And be it enacted, That in all Cases of Process of Contempt, whether for the Performance or Nonperformance of any Act or otherwise, where any Insolvent shall have cleared his Contempt except so far as regards the Payment of Costs, or where it has become unnecessary for such Insolvent to do the Act for the Nonperformance of which he shall have been committed or attached, the Court from which such Process shall have issued, or under the Order of which the Prisoner shall have been committed or attached, shall, upon the Application of such Prisoner, discharge him from the same, except as to the Costs thereof, for which he shall remain in Custody until discharged; and such Costs shall be deemed to be within the Provisions of the Acts for the Relief of Insolvent Debtors; and such Prisoner may be discharged therefrom, and from the Process of Contempt, as if the Commitment or Attachment had originally been for Nonpayment of Money or Costs.

Party aggrieved by any Decree of the Court of Conscience in Dublin may appeal to any Judge of the Supreme Courts.

XXIII. And whereas it is expedient that in certain Cases an Appeal should be allowed from the Decrees of the Court of Conscience of the City of *Dublin;* be it therefore enacted, That where any Decree or Order of said Court of Conscience shall be obtained in any Suit, for any Demand, Fee, Wages, or Sum of Money claimed by reason of any Office, Station, Place, or Employment in the Gift or Nomination of the Corporation of the City of *Dublin* or any Guild thereof, or of any Officer elected or appointed by the said Corporation or any Guild thereof, that in every such Case the Party aggrieved by such Decree or Order shall be entitled to appeal therefrom to the Chief or any Judge of any of His Majesty's Supreme Courts of Law in *Ireland* sitting at Nisi Prius at the Sittings of the City of *Dublin* next after such Decree or Orders made; and the said Appeal shall be made and proceeded on, and the Judge to whom such Appeal shall be made shall proceed with respect thereto, in the same Manner as Appeals from the Manor Courts in the City of *Dublin* are now made and proceeded on: Provided always, that nothing in this Act contained shall give or be construed to give to such Court of Conscience any Jurisdiction whatsoever in any Case which such Court did not possess before the passing of this Act.

Act may be altered, &c.

XXIV. And be it enacted, That this Act may be altered, amended, or repealed during this present Session.

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