

ANNO UNDECIMO & DUODECIMO

VICTORIÆ REGINÆ.

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CAP. XXXI.

An Act to amend the Procedure in respect of Orders for the Removal of the Poor in *England* and *Wales*, and Appeals therefrom.

[22d *July* 1848.]

WHEREAS the Communication now by Law required to be made, by the Overseers or Guardians of any Parish seeking to enforce an Order for the Removal of a poor Person to the Overseers or Guardians of the Parish to which such poor Person is intended to be removed, of a Copy of the Examination upon which such Order has been made, has been found to produce much expensive and useless Litigation upon Points of mere Form, so that few Cases of Appeals against such Orders are now decided upon the Merits: For Remedy thereof be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That so much of an Act passed in the Session of Parliament holden in the Fourth and Fifth Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for the Amendment and better Administration of the Laws relating to the Poor in* England *and* Wales, as provides, in Cases of Orders of Removal, that the Notice thereby required to be sent by the Overseers or Guardians of the Parish obtaining the Order shall be accompanied by a Copy of the Examination upon which such Order was made, shall be and the same is hereby repealed.

So much of 4 & 5 W. 4. c. 76. as provides that certain Notices shall be accompanied by a Copy of Examination, &c. repealed.

II. And be it enacted, That instead thereof such Notice shall be accompanied by a Statement in Writing under the Hands of such Overseers or such Guardians, or any Three or more of such Guardians, setting

Such Notice to be accompanied by a Statement of

Grounds of Removal instead of Copy of Examination.

setting forth the Grounds of such Removal, including the Particulars of the Settlement or Settlements relied upon in support thereof: Provided always, that on the hearing of any Appeal against any Order of Removal it shall not be lawful for the Respondents to go into or give Evidence of any other Grounds of Removal than those set forth in such Statement.

Copy of Depositions to be furnished on Application.

III. And be it enacted, That the Clerk to the Justices who shall make any Order of Removal shall keep the Depositions upon which such Order was made, and shall within Seven Days furnish a Copy of such Depositions to the Overseers or Guardians as aforesaid of the Parish to which the Removal is by such Order directed to be made, if such Overseers or such Guardians shall apply for such Copy, and pay for the same at the Rate of Two-pence for every Folio of Seventy-two Words; provided, that no Omission or Delay in furnishing such Copy of the Depositions shall be deemed or construed to be any Ground of Appeal against the Order of Removal; provided also, that on the Trial of any Appeal against an Order of Removal no such Order shall be quashed or set aside, either wholly or in part, on the Ground that such Depositions do not furnish sufficient Evidence to support, or that any Matter therein contained or omitted raises, an Objection to the Order or Grounds of Removal.

As to the Sufficiency of Statement of Grounds of Removal or Appeal.

IV. And whereas a Statement of the Grounds of Removal or of Appeal is required to be communicated for the Purpose of enabling the Party receiving it to inquire into the Subject of such Statement, and, if need be, to prepare for Trial; be it therefore enacted, That upon the hearing of any Appeal against an Order of Removal no Objection whatever on account of any Defect in the Form of setting forth any Ground of Removal or of Appeal in any such Statement shall be allowed, and no Objection to the Reception of legal Evidence offered in support of a Ground of Removal or Appeal alleged to be set forth in any such Statement shall prevail, unless the Court shall be of opinion that such alleged Ground is so imperfectly or incorrectly set forth as to be insufficient to enable the Party receiving the same to inquire into the Subject of such Statement, and to prepare for Trial: Provided always, that in all Cases where the Court shall be of opinion that any such Objection to such Statement or to the Reception of Evidence ought to prevail, it shall be lawful for such Court, if it shall so think fit, to cause any such Statement of Grounds of Removal or Appeal to be forthwith amended by some Officer of the Court or otherwise, on such Terms as to Payment of Costs to the other Party, or postponing the Trial to another Day in the same Sessions or to the next subsequent Sessions, or both Payment of Costs and Postponement, as to such Court shall appear just and reasonable.

Power to amend Statement of Grounds of Removal or Appeal.

Party making frivolous or vexatious Statement of Grounds of Removal or Appeal liable to pay Costs.

V. And be it enacted, That if either of the Parties to the said Appeal shall have included in the Statement of Grounds of Removal or of Appeal sent to the opposite Party any Ground or Grounds of Removal or of Appeal which shall, in the Opinion of the Court determining the Appeal, be frivolous and vexatious, such Party shall be liable, at the Discretion of the said Court, to pay the whole or any Part of the Costs incurred by the other Party in disputing any such Ground or Grounds, such Costs to be recovered in the same Manner as any Penalties or Forfeitures are recoverable under the said Act passed

passed in the Session of Parliament holden in the Fourth and Fifth Years of the Reign of His late Majesty King *William* the Fourth.

Power for Court to amend Order of Removal on account of Omission or Mistake.

VI. And be it enacted, That if upon the Trial of any Appeal against an Order of Removal, or upon the Return to a Writ of Certiorari, any Objection shall be made on account of any Omission or Mistake in the drawing up of such Order, and it shall be shown to the Satisfaction of the Court that sufficient Grounds were in Proof before the Magistrates making such Order to have authorized the drawing up thereof free from the said Omission or Mistake, it shall be lawful for the Court, upon such Terms as to Payment of Costs as it shall think fit, to amend such Order of Removal, and to give Judgment as if no such Omission or Mistake had existed: Provided always, that no Objection on account of any Omission or Mistake in an Order of Removal brought up upon a Return to a Writ of Certiorari shall be allowed, unless such Omission or Mistake shall have been specified in the Rule for issuing such Writ of Certiorari.

Proviso.

Decisions of Courts upon hearing of Appeals final.

VII. And be it enacted, That the Decision of the Court upon the hearing of any Appeal against any Order of Removal, as well upon the Sufficiency and Effect of the Statement of the Grounds of Removal and of Appeal, and of the Notice of Chargeability, and of the Copy or Counterpart of the Order of Removal sent to the appellant Parish, as upon the amending or refusing to amend the Order of Removal as aforesaid or the Statement of Grounds of Removal or Appeal, shall be final, and shall not be liable to be reviewed in any Court, by means of a Writ of Certiorari or Mandamus, or otherwise.

Abandonment of Orders of Removal.

VIII. And be it enacted, That in any Case in which an Order shall have been made for the Removal of any poor Person, and a Copy or Counterpart thereof sent as by Law required, it shall and may be lawful for the Overseers or Guardians of the Parish who shall have obtained such Order of Removal, whether any Notice of Appeal against such Order shall or shall not have been given, and whether any Appeal shall have been entered or not, to abandon such Order by Notice in Writing under the Hands of such Overseers or Guardians, or any Three or more of such Guardians, to be sent by Post or delivered to the Overseers or Guardians as aforesaid of the Parish to which such Person is by the said Order directed to be removed; and thereupon the said Order, and all Proceedings consequent thereon, shall become and be null and void to all Intents and Purposes as if the same had not been made, and shall not be in any way given in Evidence in case any other Order of Removal of the same Person shall be obtained: Provided always, that in all Cases of such Abandonment the Overseers or Guardians of the Parish so abandoning shall pay to the Overseers or Guardians of the Parish to which such Person is by the said Order directed to be removed the Costs which the said last-mentioned Overseers or Guardians shall have incurred by reason of such Order, and of all subsequent Proceedings thereon, which Costs the proper Officer of the Court before whom any such Appeal (if it had not been abandoned) might have been brought shall and he is hereby required, upon Application, to tax and ascertain at any Time, whether the Court shall be sitting or not, upon Production to him of such Notice of Abandonment, and upon Proof to him that such reasonable Notice of Taxation, together with a Copy

As to Payment of Costs on Abandonment.

a Copy of the Bill of Costs, has been given to the Overseers or Guardians abandoning such Order as the Distance between the Parishes shall in his Judgment require, and thereupon the Sum allowed for Costs, including the usual Costs of Taxation, which such Officer is hereby empowered to charge and receive, shall be indorsed upon the said Notice of Abandonment, and the said Notice so indorsed shall be filed among the Records of the said Court; and if the said Costs so allowed be not paid within Ten Days after such Costs shall have been lawfully demanded the Amount thereof may be recovered from such last-mentioned Overseers or Guardians in the same Manner as any Penalties or Forfeitures are recoverable under the said Act passed in the Session of Parliament holden in the Fourth and Fifth Years of the Reign of King *William* the Fourth.

No Appeal if Notice be not given within a certain Time after Notice of Chargeability.

IX. And be it enacted, That no Appeal shall be allowed against any Order of Removal if Notice of such Appeal be not given as required by Law, within the Space of Twenty-one Days after the Notice of Chargeability and Statement of the Grounds of Removal shall have been sent by the Overseers or Guardians of the removing Parish to the Overseers or Guardians of the Parish to which such Order shall be directed, unless within such Period of Twenty-one Days a Copy of the Depositions shall have been applied for as aforesaid by the last-mentioned Overseers or Guardians, in which Case a further Period of Fourteen Days after the sending of such Copy shall be allowed for the giving of such Notice of Appeal; but in such Case no poor Person shall be removed under such Order of Removal until the Expiration of such further Period of Fourteen Days.

Service of suspended Orders of Removal and Orders consequent thereon.

X. And be it enacted, That all the Provisions which relate to the sending and Service of Copies of Orders of Removal shall apply to such Orders when suspended, and to all Orders consequent upon such Suspension, and to all Copies of Charges arising thereon, and Demands of Payment of such Charges.

4 & 5 W. 4. c.76., and all Acts amending the same, to be construed with this Act.

XI. And be it enacted, That the said Act passed in the Session of Parliament holden in the Fourth and Fifth Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for the Amendment and better Administration of the Laws relating to the Poor in* England *and* Wales, and all Acts to amend and extend the same, and the present Act, shall (except so far as the Provisions of any former Act are altered, amended, or repealed by any subsequent Act,) be construed as One Act.

Commencement of Act.

XII. And be it enacted, That this Act shall commence and take effect on the First Day of *August* One thousand eight hundred and forty-eight.

Act may be amended, &c.

XIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

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