

ANNO QUINTO & SEXTO

GULIELMI IV. REGIS.

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CAP. LV.

An Act for facilitating the Appointment of Sheriffs in *Ireland*, and the more effectual Audit and passing of 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.*

[9th *September* 1835.]

WHEREAS it appears by the Twelfth Report made to His Majesty by the Commissioners appointed to inquire into the Duties, Salaries, and Emoluments of the Officers, Clerks, and Ministers of Justice in all Temporal and Ecclesiastical Courts in *Ireland*, that it is expedient to make Provision for the better taking of the Accounts of Sheriffs and of Custodees in Trust for His Majesty, and to abolish the Proceeding by Custodiam for the

Recovery of Debts due by Subject to Subject, and to substitute another Remedy for it, and that certain Offices in the Court of Exchequer in *Ireland* may be abolished: And whereas it is expedient to extend to *Ireland* certain Provisions of an Act passed in the Third and Fourth Years of His Majesty's Reign, intituled *An Act for facilitating the Appointment of Sheriffs, and the more effectual Audit and passing of their Accounts; and for the more speedy Return and Recovery of Fines, Issues, forfeited Recognizances, Penalties, and Deodands; and to abolish certain Offices in the Court of Exchequer:* 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 from and after the Commencement of this Act it shall not be necessary for any Sheriff or Sheriffs of any County, City, or Town in *Ireland* to sue out any Patent or Writ of Assistance, or to make or pay Proffers, nor shall he or they be apposed or take any Oath or Oaths before the Barons of the said Court to account or be cast out of Court, as now or heretofore in use in His Majesty's Court of Exchequer in *Ireland;* any Law, Statute, or Usage to the contrary notwithstanding.

3 & 4 W. 4. c. 99.

Sheriffs need not sue out Patent or Writ of Assistance, or take Oath, or be apposed in the Exchequer.

II. And be it further enacted, That whenever any Person shall be duly nominated by the Lord Lieutenant or other Chief Governor or Governors of *Ireland* for and to be Sheriff of any County in *Ireland*, such Appointment shall be forthwith notified in the *Dublin Gazette*, and the Appointment of every such Sheriff shall be made by a Warrant under the Signature or Signatures of the said Lord Lieutenant or other Chief Governor or Governors of *Ireland*, according to the Form set forth in the Schedule hereto annexed, which Schedule and every thing therein contained shall be deemed and be Part of this Act; and every such Warrant shall be made out by the Chief or Under Secretary of the said Lord Lieutenant or other Chief Governor or Governors, and shall be by him transmitted to the Person so nominated and appointed Sheriff as aforesaid; and the Appointment of Sheriff thereby made shall be as good, valid, and effectual in the Law to all Intents and Purposes whatsoever as if the same had been made by Patent under the Great Seal of *Ireland*, or by any Ways and Means heretofore in use; and the Sheriff and Sheriffs so nominated and appointed as aforesaid shall thereupon, and upon taking the Oath of Office hereafter mentioned, but not before, have and exercise all Powers, Privileges, and Authorities whatsoever usually exercised and enjoyed by Sheriffs of Counties in *Ireland*, without any Patent, Writ of Assistance, or other Writ whatsoever, or entering into Recognizance by himself or Sureties, and without Payment of or being liable to pay any Fees whatsoever for the same.

Sheriff to be appointed by Warrant.

III. Provided always, and be it further enacted, That a Duplicate of the said Warrant shall within Ten Days next after the Date thereof be transmitted by the said Chief or Under Secretary to the Secondary of the Chief Remembrancer of the said Court of Exchequer, to be by him enrolled, and which he is hereby required forthwith to enrol, and to keep without Fee or Reward.

Duplicate of Warrant to be transmitted to Secondary of Chief Remembrancer.

IV. And

Sheriff to transmit Duplicate of Appointment of Under Sheriff to the said Secondary.

IV. And be it further enacted, That from and after the Commencement of this Act any Person so appointed Sheriff as aforesaid who shall nominate and appoint any Person to be his Under Sheriff shall make such Appointment by Writing under his Hand, and shall within One Month after such Appointment transmit a Duplicate thereof to the said Secondary, to be by him filed, and which he is hereby required to file, among the Records of his Office, and for which he shall be entitled to demand and have from such Under Sheriff the Sum of Five Shillings, and no more; and such Appointment and Duplicate shall not be liable to any Stamp Duty whatever; and any Sheriff neglecting so to do shall forfeit a Sum of One hundred Pounds to any Person who will sue for the same; and no such Appointment to the Office of Under Sheriff shall be invalid for or by reason of the Person so appointed having exercised, executed, or officiated as Under Sheriff within Three preceding Years; nor shall the High Sheriff appointing, or the Person so appointed by him, be liable to any Fine or Penalty for exercising, executing, or officiating in the said Office of Under Sheriff under such Appointment; any Law or Statute heretofore made to the contrary notwithstanding.

Oath of Office may be taken before a Baron, or the Remembrancer, or a Commissioner for taking Affidavits.

V. And be it further enacted, That each and every Person so appointed Sheriff and Under Sheriff as aforesaid shall before he enter upon the Execution of his Office take the Oath heretofore and now required by Law, which Oath shall be fairly written on Parchment, without being subject to Stamp Duty, and signed by him, and shall and may be sworn before the Barons of His Majesty's Exchequer, or any of them, or before the said Chief Remembrancer, or any Commissioner for taking Affidavits in said Court, and the same shall be thereupon transmitted to the said Secondary, who is hereby required to file the same among the Records of his Office, for which he shall be entitled to demand and have from such Sheriff or Under Sheriff the Sum of Five Shillings, and no more; and no Sheriff or Under Sheriff shall act as such until such Affidavit shall be lodged with such Secondary, on pain of Forfeiture for any Act so done a Sum of One hundred Pounds to any Person who shall sue for the same.

Outgoing Sheriff to give a List of Prisoners, Writs, &c. to his Successor.

VI. And be it further enacted, That every Sheriff of any County, City, Liberty, Division, Town Corporate, or Place shall at the Expiration of his Office make out and deliver to the new or incoming Sheriff a true and correct List and Account under his Hand of all Prisoners in his Custody, and of all Writs and other Process in his Hands not wholly executed by him, with all such Particulars as shall be necessary to explain to the said incoming Sheriff the several Matters intended to be transferred to him, and shall thereupon turn over and transfer to the Care and Custody of the said incoming Sheriff all such Prisoners, Writs, and Process, and all Records, Books, and Matters appertaining to the said Office of Sheriff; and the said incoming Sheriff shall thereupon sign and give a Duplicate of such List and Account to the Sheriff going out of Office, to whom the same shall be a good and sufficient Discharge of and from all the Prisoners therein mentioned and transferred to the said incoming Sheriff, and the further Charge of the Execution of the Writs, Process, and other Matters therein contained, without any Writ of Discharge

Discharge or other Writ whatsoever; and the said incoming Sheriff shall thereupon stand and be charged with the said Prisoners, and also with the Execution and Care of the said Writs, Process, and other Matters contained in the said List and Account, as fully and effectually as if the same Writs and Process had been turned over by Indenture and Schedule; and in case any Sheriff shall refuse or neglect at the Expiration of his Office to make out, sign, and deliver such List and Account as aforesaid, or shall make out an untrue or incorrect List or Account, or shall refuse or neglect to turn over the Process aforesaid in manner aforesaid, every such Sheriff so neglecting or refusing shall be liable to make such Satisfaction by Damages and Costs to the Party aggrieved as he, she, or they shall sustain by such Neglect or Refusal.

Accounts of Sheriffs to be audited by the Chief Remembrancer.

VII. And be it further enacted, That the Accounts of the present and future Sheriffs of Counties, Cities, and Towns within *Ireland* shall from and after the Commencement of this Act be examined and audited by the said Chief Remembrancer, who shall possess all such Power, Authority, and Jurisdiction in respect thereof as is now possessed by the said Court.

Sheriff to transmit Accounts to the Remembrancer.

VIII. And be it further enacted, That every the Person and Persons who now is or are or who hereafter shall be Sheriff or Sheriffs of any County, City, or Town within *Ireland*, or his or their Representatives, shall within Two Calendar Months next after the Expiration of his or their Office, or, in case of the Death of any Sheriff or Sheriffs, the Under Sheriff by him or them appointed, or the Representative of such Sheriff or Sheriffs, shall within Two Calendar Months next after the Death of such Sheriff or Sheriffs, make out and transmit to the said Remembrancer a just and true Account under his or their Hand or Hands of all Sums received by such Sheriff or Sheriffs to or for the Use of His Majesty, or with which he was or is chargeable, and of all Sums paid or claimed by him or them, or on his or their Behalf, with all such Particulars as shall be needful to explain the same: Provided always, that such Under Sheriff shall not be personally responsible for any Sum or Sums received by such deceased Sheriff, but that the same shall be answered by the Representatives of the said deceased Sheriff, or otherwise in due Course of Law.

Sheriff may make Oath to the Account before any Baron, &c.

IX. And be it further enacted, That in case it shall be necessary for any such Sheriff or Sheriffs, or his or their Under Sheriff, to make Oath or Affidavit to any such Account, or any Matter or Thing relating thereto, such Oath or Affidavit, except when the said Remembrancer shall require his or their personal Examination before him, shall and may be sworn before any of the Barons of the Court of Exchequer, or before the said Remembrancer, or before any Commissioner of the said Court of Exchequer for taking Affidavits therein.

Accounts to be declared by the Remembrancer

X. Provided always, and be it further enacted, That the Accounts by this Act required to be audited by the said Remembrancer shall be declared and certified by him in the said Court, and he shall have

Power to charge in such Account such Sum to such Sheriff as he shall appear to be properly chargeable with; and every Sheriff shall pay into the Receipt of His Majesty's Exchequer at *Dublin* the Balance due by him on such Account at such Time as shall be specified in such Rule or Order as the said Remembrancer shall make thereon; and the said Remembrancer shall thereupon, or as soon as conveniently may be, cause a Certificate thereof, in the Nature of a Quietus, to be made out and delivered to such Sheriff without Fee or Reward, which shall be equally valid and effectual as a Quietus to discharge the Accountant, and to all other Intents and Purposes. in the Court of Exchequer.

XI. And be it further enacted, That the said Remembrancer shall cause to be made out and issued, according to the Practice of the said Court, and without Fee or Reward, Process for duly levying and enforcing of all such Fines, Issues, Amerciaments, Penalties, Forfeitures, Recognizances, and Deodands payable to His Majesty, His Heirs and Successors, (except as herein-after mentioned,) which shall not have theretofore been levied, recovered, vacated, or discharged, and so from Time to Time until the same shall be fully paid or levied, vacated or discharged. Remembrancer to cause Process to issue for recovering Fines, &c.

XII. And be it further enacted, That it shall be lawful for the Lord High Treasurer or the Commissioners of His Majesty's Treasury, and he or they are hereby authorized, by Warrant under their Hands directed to the proper Officer or Officers, to stay the issuing or Execution of all or any of such Process as aforesaid, and to vacate and discharge such Fines, Issues, Amerciaments, Penalties, forfeited Recognizances, or Deodands, or any of them, or any Part thereof: Provided that nothing in this Act contained shall extend to enable the Lord Treasurer or the Commissioners of His Majesty's Treasury to remit or restore any Fines, Issues, Amerciaments, Penalty, forfeited Recognizance, or Deodand to which any Body Corporate or Politic, Person or Persons, shall or may be entitled, which shall have been actually levied by or paid to them; and provided further, that nothing herein contained shall prevent the Lord Lieutenant or other Chief Governor or Governors of *Ireland* from remitting any Fine imposed on any Person or Persons as a Punishment for any Offence. Treasury may stay Proceedings.

XIII. And be it further enacted, That all Bodies Corporate and Politic, and all and every other Person and Persons, having or claiming Title to any Fines, Issues, Amerciaments, Penalties, Forfeitures, Recognizances, Deodand, Sum or Sums of Money contained in any Account transmitted by virtue of this Act to the said Remembrancer, shall and may, by themselves, or their, his, or her Bailiff, Steward, or Agent, at all seasonable Times, have Access to the said Accounts, and take Minutes or Extracts therefrom. Persons interested in Fines, &c. may examine Accounts.

XIV. And be it further enacted, That it shall be lawful for the Lord High Treasurer, or any Three or more of the Commissioners of His Majesty's Treasury, from Time to Time to order and direct Payment, by Warrant under his or their Hand or Hands, of the said Fines, Issues, Amerciaments, Penalties, forfeited Recognizances, Deodands, Sum and Sums of Money, or any of them, to any Body Corporate or Politic, Treasury may direct Payments to Persons entitled.

Politic, Person or Persons entitled to the same, or to their, his, or her Bailiff, Steward, or Agent: Provided always, that notwithstanding such Payment any Body Politic or Corporate, or Person or Persons aggrieved thereby shall and may apply by Petition in the Manner herein-after mentioned against the Party or Parties to whom such Payment shall have been made, to restore or refund the Sum or Sums by him or them so received.

If Treasury refuse, Application may be made to the Exchequer.

XV. Provided always, and be it further enacted, That in case the Commissioners of His Majesty's Treasury shall neglect, refuse, or decline to order the Payment of any Fines, Issues, Amerciaments, Penalties, forfeited Recognizances, Deodands, Sum or Sums of Money so claimed as aforesaid, or if any Party shall be aggrieved by any Order made by the said Commissioners, it shall be lawful for any such Body or Bodies Corporate or Politic, Person or Persons, to apply in a summary Way by Petition to the Lord Chief Baron and the other Barons of His Majesty's Court of Exchequer in *Ireland*, setting forth the Nature of the Claim or Title of the Petitioner or Petitioners, and thereupon the said Barons of His Majesty's Court of Exchequer shall and they are hereby authorized to proceed to call the proper Parties before them, and to hear and determine the Matter of the said Petition, and to give such Costs and to make such Order and Orders therein as they shall deem just.

Saving of Rights by Grant from the Crown.

XVI. Provided also, and be it further enacted, That nothing herein contained shall extend or be prejudicial to the Rights, Privileges, and Remedies of any Bodies Corporate or Politic, or of any Lord of any Manor, Liberty, or Franchise whatsoever, or of any Person or Persons claiming Title under and by virtue of any Grant from the Crown; any thing herein contained to the contrary notwithstanding.

Saving of Jurisdiction of Barons of the Exchequer.

XVII. Provided always, and be it further enacted, That nothing herein contained shall extend to prejudice or affect the Power, Jurisdiction, or Authority of the Lord Chief Baron and the other Barons of His Majesty's Court of Exchequer in *Ireland*, as to the said Fines, Issues, Amerciaments, Penalties, Forfeitures, Recognizances, and Estreats, or any Process or Proceedings thereon.

Offices to be abolished.

XVIII. And be it further enacted, That the following Offices of the said Court of Exchequer in *Ireland* shall from and after the Commencement of this Act be and the same are hereby abolished; (that is to say,) the Offices of the Comptroller of the Pipe, Clerk of the Pipe, Summonister and Clerk of the Estreats, and Transcriptor and Foreign Apposer, and the Officer of Secondary in the Office of Lord Treasurer's Remembrancer.

Duties of Second Remembrancer in future to be performed in Person, and present

XIX. And whereas the Office of Second or Lord Treasurer's Remembrancer of the said Court is at present held by Sir *Hugh Stewart* Baronet and *Mervyn Stewart* Esquire, and the Duties thereof are performed by Deputy; and it is expedient that the Duties of the said Office should in future be performed in Person; be it therefore enacted, That the Grant of the Office of Second or Lord Treasurer's Remem-

Remembrancer made to the said Sir *Hugh Stewart* Baronet and *Mervyn Stewart* Esquire shall from and after the Commencement of this Act cease and determine; and that the Person to whom the said Office shall henceforth be granted shall perform the Duties thereof in Person, and be a Barrister at Law of Ten Years standing at the least, who shall have practised as such in His Majesty's Court at *Dublin* or *Westminster*, and such Person shall hold his Office during good Behaviour. Grant to cease.

XX. And whereas it is reasonable and fit that Compensation should be made to Persons deprived of their Offices, or of any lawful Fees and Emoluments, by virtue of this Act; be it therefore enacted, That it shall be lawful for the Lord High Treasurer or Commissioners of His Majesty's Treasury for the Time being, or any Three or more of them, by Warrant under his or their Hand or Hands, to order or direct that such annual or other Compensation shall be made to the said Persons for such Loss as they will respectively sustain by reason of the Provisions of this Act as shall be just and reasonable; and such Compensation shall be issued and paid and payable out of and charged and chargeable upon the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland:* Provided always, that an Account of all such Compensations shall within Fourteen Days next after the same shall be so granted be laid upon the Table of the House of Commons, if Parliament shall be then assembled, or if Parliament shall not be then assembled, within Fourteen Days after the Meeting of Parliament then next following. Compensation to be made to Persons deprived of their Offices.

XXI. And be it further enacted, That, for the better enabling of His Majesty's Treasury to form a correct Judgment of the Nature and Amount of the Compensations which it may be reasonable and proper to make to the said Officers whose Fees may be taken away or diminished as aforesaid, for the Loss thereof, it shall and may be lawful for the Commissioners of His Majesty's Treasury, if they shall think fit, from Time to Time to refer to the Barons of the said Court of Exchequer in *Ireland* to report their Opinion as to the Amount of such Compensation. Claims for Compensation may be referred to the Barons.

XXII. And be it further enacted, That the several Records, Books, and other public Documents of and concerning the Duties and Business of the said Offices so abolished as aforesaid, and also of and concerning the said Office of Second Remembrancer of the said Court, shall, upon or immediately after the Commencement of this Act, be delivered by the several Officers or Persons having Custody of the same into the Hands and Care of the said Chief Remembrancer, to be by him preserved and kept, subject nevertheless to such Rules, Orders, and Regulations as the Chief Remembrancer, by and with the Approbation of the Lord Chief Baron and the other Barons of the said Court of Exchequer, and the Lord High Treasurer or any Three of the Commissioners of His Majesty's Treasury, shall or may from Time to Time ordain or make touching the same. Records heretofore kept in abolished Offices, to be delivered to the Chief Remembrancer.

XXIII. And be it further enacted, That from and after the Commencement of this Act all Process and other Proceedings, Estreats, Taxation Proceedings heretofore had in abo-

lished Offices to be had in Chief Remembrancer's Office.

Taxation of Costs, Matters and Things, usually issued, had, done, received, filed, recorded, returnable to or taken by the Officers whose Offices are hereby abolished, or any of them, or by the said Chief or Second Remembrancer, which shall from thenceforth be by Law required, or needful to be issued, done, had, received, filed, recorded, or taken, shall be issued, done, had, received, filed, recorded, returnable to, and taken by the said Chief Remembrancer, or by the Second Remembrancer, by and under his Direction, as fully and effectually, to all Intents, Constructions, or Purposes, as the same might or could have been issued, done, had, or taken by the said Officers, or the said Chief or Second Remembrancer, before the passing of this Act, subject nevertheless to all such Rules, Orders, and Regulations as shall or may be made from Time to Time for regulating or discontinuing the same by the said Chief Remembrancer, with the Approbation of the Lord Chief Baron and the other Barons of the Court, and which he is hereby authorized to make and ordain accordingly; and all Returns which now should be made of Fines and Estreats to any of such abolished Offices shall be made to the Office of such Chief Remembrancer in future.

Copies and Extracts may be taken.

XXIV. And be it further enacted, That Searches may be made, and Copies or Extracts of and from all Records, Books, and Documents in or which shall hereafter be in the Office of the Chief Remembrancer shall and may be had and taken, at such Times and in such Manner as the said Chief Remembrancer shall, by and with the Approbation of the said Lord Chief Baron and the other Barons of the said Court, direct; and all such Copies or Extracts, signed and authenticated by such Chief Remembrancer, or such Person or Persons as shall or may be appointed by the said Remembrancer for that Purpose, shall be available in Evidence, and as valid and effectual to all Intents and Purposes as the same would by Law have been if the same had been signed, authenticated, and given before the passing of this Act by the Officer having the Custody thereof.

Grants in custodiam for Debts to the Crown to be made on Application of Commissioners of the Treasury, unless Cause shown to the contrary.

XXV. And be it enacted, That it shall be lawful for the Secondary of the said Chief Remembrancer, upon Application to him on behalf of the Lord High Treasurer or the Commissioners of His Majesty's Treasury in the Matter of any Debtor to His Majesty whose Debt shall be a Debt of Record in the said Court, and on the Certificate of the Attorney or Solicitor General for *Ireland* that such Debt is over due to the Crown, to enter a Rule in such Matter that a Custodiam be made to such Person as shall be named on behalf of the said Lord High Treasurer or Commissioners, in Trust for His Majesty, of the Lands, Tenements, and Hereditaments of such Debtor, to hold to such Trustee until such Debt be discharged, unless Cause to the contrary be shown to the said Chief Remembrancer at such Time as shall be appointed by such Rule for that Purpose; and upon Proof that a Copy of such Rule hath been served upon the Debtor, or left at his last Place of Residence, or that he hath absconded, or that his last Place of Residence cannot be discovered, and that such Rule or Order has been served in such Manner as the said Chief Remembrancer may have directed, it shall be lawful for the said Chief Remembrancer, at the Time appointed by

by the said Rule for that Purpose, to make the same absolute, or to allow any Cause shown against the same, in the whole or in part, or to make such further Order in the Matter as he shall deem just, and to confine the Grant in custodiam to so much of the Lands, Tenements, or Hereditaments of the Debtor as may be sufficient for securing a due and prompt Payment of the Debt; and he shall by every such Order direct that the Custodee shall come in and account before him at such Time or Times as he shall in every such Order direct; and every Grant in custodiam shall be made out by his said Secondary, and shall be signed and enrolled by him, and for which he shall receive a Fee of One Pound.

Duties of the Second Remembrancer.

XXVI. And be it enacted, That it shall be the Office and Duty of the said Second Remembrancer to receive and report upon all such References as shall be made to him by the said Court in any Cause or Matter pending at the Equity Side thereof, and to do and perform such other ministerial Duties there as he shall be required to perform by any Order of the said Court, and he shall have Power to examine Witnesses upon Oath, and take Evidence *vivâ voce*, or on written Interrogatories, or by Affidavit.

Examiner.

XXVII. And be it enacted, That the Examiner of the Chief Remembrancer shall be also Examiner of the said Second Remembrancer, and shall perform all such Duties and possess all such Rights and Powers as Examiner of the said Second Remembrancer as he now performs or possesses as Examiner of the Chief Remembrancer.

Receiver may be appointed of Lands heretofore granted in custodiam on Petition to Court of the Grantee.

XXVIII. And be it enacted, That it shall be lawful for any Person or Persons to whom any Grant in custodiam hath heretofore been made, in his or their own Right, or his or their Representatives or Assigns, to apply to the Court of Exchequer at the Equity Side thereof, by a Petition stating such Grant and his Rights under the same, for an Order for the Appointment of a Receiver over the Lands or other Property granted in custodiam to him, or to apply to the said Court or to the Court of Chancery, as the Case may be, by a like Petition, that any Receiver already appointed over the said Lands or Property, or any of them, be extended to the Matter of his said Petition; and such Court shall thereupon, in case it shall appear that any Sum is due on account of the Demand for which such Grant in custodiam was made, make an Order for appointing or extending a Receiver over the Whole or a competent Part of the Lands or Property granted in custodiam; and such Receiver shall be authorized to apply the Rents and Profits of the said Lands or Property to the Payment of the Debt for which such Grant in custodiam was made, and such other Charges upon the said Lands or Property, and in such Priority as the Court in which such Receiver is appointed may direct.

Contents of such Petition, and Proceedings thereon.

XXIX. Provided always, and be it enacted, That every such Petition shall be on the filing thereof verified by Affidavit, in which the Person claiming the Benefit of the said Grant in custodiam shall state the Sum due upon or under such Grant for Principal, Interest, and Costs, after all just and fair Allowances whatsoever; and the

Court shall, notwithstanding such Statement, on the Application of any Person interested in the Lands granted in custodiam, make an Order referring it to the proper Officers of the Court to take an Account of what is due to the Custodee for Principal, Interest, and Costs, charging him with all Sums which shall have been received, or which, without wilful Default or Neglect, might have been received, under or by virtue of the said Grant in custodiam; and if any such Custodee, or his Representatives or Assigns, shall neglect to present such Petition before the Twelfth Day of *February* next, for the Appointment of a Receiver, or to have a Receiver already appointed extended to the Matter of his Petition, or to verify such Petition, and procure an Order thereon as aforesaid, then and in every such Case the Grant in custodiam of such Custodee shall thenceforth cease and be dissolved, and the Lands or other Property extended shall be discharged from the same; provided however, that it shall be lawful for the said Court of Exchequer, if it shall think fit, to extend for a further Period of Three Months the Time for presenting such Petition or obtaining such Order, upon a special Application for that Purpose made.

After Appointment of Receiver in Matter of Petition founded on Grant in custodiam, further Proceedings in custodiam to be stayed.

XXX. And be it enacted, That from and after the pronouncing of any absolute Order for appointing or extending a Receiver in the Matter of a Petition founded on a Grant in custodiam obtained before the passing of this Act all further Proceedings in such Custodiam shall be stayed, but the Court of Exchequer shall have Power to make such Order in such Custodiam Matter, for enforcing the Payment of any Rent due out of the Lands granted in custodiam at the passing of this Act, or the enforcing of any Attachment theretofore awarded, or any Order theretofore made in such Custodiam Matter, as fully as if this Act had not been passed; and every Person who shall at the Time of the passing of this Act hold any Lands under a Letting made in such Custodiam Matter shall be entitled to hold the same for the Residue of his Term as if this Act had not been passed, but not further or otherwise; and the Recognizance of such Tenant and his Sureties shall continue and be valid and binding on them respectively, and be, if necessary, put in Suit, and the Rent payable by such Tenant and not actually paid to the Custodee shall be paid to such Receiver, and the Rights of every Person who at the Time of passing this Act shall be a Party in any Suit then pending in a Court of Equity in consequence of a Grant in custodiam theretofore made, or of the Representative of a Person so made a Party in a Suit then pending, shall be determined as it would be if this Act had not been made: Provided, and be it enacted, that in any Case in which a Receiver has been appointed by the Court of Exchequer in any Custodiam Matter, any Person interested in the Continuance of such Receiver shall be at liberty to present a Petition stating that Fact, and thereupon the Court shall make an Order declaring that such Receiver shall be continued in the Matter of such Petition, and the Recognizances of such Receiver and his Sureties shall be considered valid and binding on them as if they were entered into in the Matter of such Petition, and all such Proceedings shall be had in such Matter as would under this Act be had in case a Receiver was for the first Time appointed or extended under the Provisions hereof.

Providing for Continuance of Receiver appointed by the Court of Exchequer.

XXXI. And

In future all Grants in custodiam to be made only in Trust for His Majesty;

Receiver may be appointed on Judgment or Recognizance, over so much of the Debtor's Lands as the Court shall direct.

XXXI. And be it enacted, That from and after the Commencement of this Act no Grant in custodiam for Recovery of any Debt or Demand shall be made, save in Trust for His Majesty, and for a Debt due to the Crown, and certified to be so by the Attorney or Solicitor General for *Ireland;* and 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 His 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 of the Rents and Profits of the Entire and not of a Moiety only of all Lands, Tenements, or Hereditaments which he would be entitled to have extended or appraised under a Writ of Elegit, or extended, seized, or taken under a Writ of Levari facias, or other Proceeding, on such Recognizance, or to have a Receiver thereof appointed by that Court extended to that Matter; and it shall be lawful for the Court to appoint or extend a Receiver accordingly over the whole thereof, or over so much thereof as shall appear to it 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 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 Affidavits or Evidence as it shall require, of the Particulars and annual Rental or Value of the Lands over which such Receiver shall be sought.

Receiver to apply Rents as Court shall direct.

XXXII. And be it enacted, That every Receiver so to be appointed as aforesaid shall apply all Sums which he shall receive as such according to such Order or Orders as the Court shall make for that Purpose; and that it shall be lawful for the Court to extend the Receiver from the Matter of the Petition of one Creditor to the Matter of the Petition of any other or others, and to order the Rents and Profits to be applied according to the Priority of each, as ascertained by the Date of the Entry of the Judgment or Enrolment of the Recognizance; and that no Proceeding in the Matter of any Petition under this Act shall determine by the Death of any of the Parties in such Matter, but the Court in which such Petition may have been filed shall and may, on a Motion for that Purpose made by or on behalf of any Person interested in such Proceeding, and on its appearing that any of such Parties has died, make an Order for continuing such Proceedings for and in the Name of or against the real or personal Representative or Representatives, or the Assignee or Assignees of such deceased Party, or the Person or Persons in whom the Interest of the deceased Party has become vested, or who claim the same, unless good Cause shall be shown to the contrary within some Time to be specified in such Order, and give such Direction for the Service of such Order on the Parties named therein as to the Court shall seem meet, and shall and may make the same absolute, or discharge or vary such Order, on its appearing

appearing that such Order was duly served, and on hearing what may be offered on behalf of the Person so served.

Tenants to pay Rents to Receiver.

XXXIII. And be it enacted, That in every Order made for the Appointment of a Receiver as aforesaid the Tenants shall be required to pay him all Rents due or which shall become due by them for or in respect of the Lands mentioned in such Order; and every such Order shall require the Receiver to enter into Security, by himself and Two Sureties, to such Amount as shall be therein specified, and such further Security as the Court shall from Time to Time direct, for the due Performance of his Duties; and every such Security shall be given by Recognizance, and such Recognizance may be acknowledged either before the Court or any Judge or Master thereof, or any Master Extraordinary or Commissioner authorized to take Affidavits or to take Special Bail therein, and shall be enrolled in such Court; and such Order shall not be served on the Tenants, nor shall such Receiver receive any of the Rents, until such Recognizance shall be enrolled; and the Recognizance of the Receiver and his Sureties shall not be discharged or affected in consequence of such Receiver being extended to any other Matter.

Receiver to account.

XXXIV. And be it enacted, That every Receiver to be appointed as aforesaid shall account once in every Year, and as often as the Court shall direct; and the Court in which he is appointed or acting shall exercise all Power, Authority, and Jurisdiction over him, and in the Matter in which he shall be appointed, which it might exercise if he were appointed in a Cause pending there.

Persons neglecting to call Receiver to account to be chargeable with the Loss.

XXXV. And be it enacted, That if any Receiver shall neglect to account as aforesaid, and the Person for whose Benefit he shall have been appointed or continued shall neglect to take the necessary Proceedings for compelling him so to do, every such Person shall be chargeable with any Loss which may be sustained by any Default or Neglect of such Receiver: Provided always, that it shall not only be lawful for the Party at whose Suit he shall have been appointed, but also for any other Party interested in the Matter, to apply to the Court that he may be compelled to account.

Judgment to be satisfied when Debt is paid.

XXXVI. And be it enacted, That so soon as the Debt due on Foot of any Judgment or Recognizance shall have been paid off as aforesaid, or as it shall appear to the Court that it might have been paid off if it were not for the Default or Neglect of the Person entitled thereto, it shall be lawful for the Court to direct Satisfaction to be entered thereon, or that it shall be assigned as the Court shall direct, and thereupon, or so soon as every Judgment or Recognizance for recovering which the Receiver shall have been extended shall be satisfied, he shall be discharged.

Priorities to be determined without reference to any Inquisition.

XXXVII. And be it enacted, That in determining the Priority of the Demands of Creditors the Court in which any Question respecting such Priority shall arise shall not give to the Demand of any Creditor Priority over the Demand of another in consequence of his having obtained an Inquisition on an Outlawry or other Proceeding

ceeding taken by him, but shall determine such Priority as if no such Inquisition was had; and every Creditor who shall obtain an Order for the Appointment of a Receiver under the Provisions of this Act shall be considered to be a Creditor who has issued and executed an Execution on his Judgment or Recognizance from the Date of such Order, and so as not to be affected by the Bankruptcy of his Debtor, further or otherwise than he would be if his Debtor became bankrupt after Execution executed.

Monies received by Receivers to be applied under the Orders of the Court.

XXXVIII. And be it enacted, That in case any Sum shall be received by any such Receiver before an Order shall be made to extend him to the Matter of another Petition, the Money so received by him shall be distributed and paid, under the Orders of the Court, as it would have been if such further Order extending him had not been made, but in distributing the Funds thereafter to be received the Court shall have Regard to the Rights of the Person or Persons at whose Instance the Order extending the Receiver was made; and the Court shall have Power, if it shall think fit, to direct in any Case that the Costs incurred by the Person at whose Instance the Receiver was first appointed in procuring such Appointment be paid out of the Funds collected by the Receiver, without regard to the Priority of the Person on whose Application such Receiver was appointed.

Treasury authorized to refer Public Accounts to Chief Remembrancer.

XXXIX. And whereas it is expedient to alter and amend an Act passed in the Second and Third Years of the Reign of His present Majesty, intituled *An Act 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; be it therefore enacted, That it shall be lawful for the Lord High Treasurer or any Three or more of the Commissioners of His Majesty's Treasury, and he and they are hereby authorized, in all Cases in which he or they shall think fit, to refer it to the said Chief Remembrancer of the Court of Exchequer in *Ireland* to inquire into the Matter of any Account or into any Question arising upon any Account of any Person, Body Corporate, or Board intrusted with the Care or Application of any Public Money in *Ireland*, and to report to the said Lord High Treasurer or the Commissioners of His Majesty's Treasury his Opinion thereupon; and the said Remembrancer is hereby required to inquire and report accordingly.

Chief Remembrancer may take Evidence vivâ voce or by Affidavit.

XL. And be it enacted, That it shall be lawful for the said Chief Remembrancer in proceeding such Reference as aforesaid, or upon any of the Matters herein-before mentioned, to examine all such Parties and Persons as he shall deem proper upon Oath, and to take Evidence *vivâ voce*, or by Affidavit, or upon written Interrogatories, to be exhibited by his Examiner or any Commissioner to be by him appointed for that Purpose, and to issue Process to compel the Attendance and Examination of Parties and Witnesses, and the Production of Books, Papers, or Writings, before him, or such Commissioner or Examiner as aforesaid, and to that end to exercise all Powers vested for such Purposes in the said Court.

Order of Chief Remembrancer to be Order of the Court, but may be reversed, varied, or altered by the Barons.

XLI. And be it enacted, That every Order made by the said Chief Remembrancer in proceeding upon any of the Matters aforesaid shall be entered by his Secondary, and shall be deemed and taken to be an Order of the said Court, and shall be executed as such: Provided always, that every such Order may be reversed, varied, or altered by the Chief Baron and the other Barons of the said Court, upon Motion or Petition, provided that such Motion or Petition be made or presented within the Term ensuing the Time at which the Party complaining shall have Notice of the Order complained of, and otherwise that such Order shall be final and conclusive.

Fees for Second Remembrancer.

XLII. And be it further enacted, That such Fees as are specified in the Second Schedule to this Act annexed, and as shall be ordained and authorized by any Order or Orders to be for that Purpose made by the said Court of Exchequer, and no other, shall be taken by the said Second Remembrancer; and it shall and may be lawful for the Lord Chief Baron of the said Court, and the Lord High Treasurer or any Three or more of the Commissioners of the Treasury for the Time being, and they are hereby required, by some Writing under their respective Hands, to ascertain for and allow to the said Second Remembrancer such annual Salary thereout as to them shall seem reasonable; and such Salary shall be paid and payable to him quarterly, (that is to say,) on every Fifth Day of *January*, Fifth Day of *April*, Fifth Day of *July*, and Fifth Day of *October* in every Year; and he shall keep One or more Book or Books, and shall cause all Fees by him received to be duly and regularly entered therein, and shall submit the same to the Inspection of the said Lord Chief Baron and of the said Lord High Treasurer or Commissioners of the Treasury, or such Person as they shall appoint for that Purpose, whenever he shall be thereto required; and shall also within One Week after each of the Quarter Days aforesaid render a true and faithful Account in Writing (to be verified on Oath if required) to the Lord High Treasurer or Commissioners of the Treasury for the Time being of all Fees by him received and retained in the Quarter immediately preceding the rendering of such Account; and shall also within the same Period pay over the Balance of such Account (if any) into the Receipt of His Majesty's Exchequer at *Dublin:* Provided always, that if upon the Examination of any such Account it shall appear to the said Lord High Treasurer or Commissioners aforesaid that any unreasonable or improper Charge or Deduction has been made therein, the same shall be disallowed by the Treasurer or Commissioner; and the Amount of all and every Sum of Money so disallowed shall, within Ten Days after such Disallowance thereof shall be notified to the said Second Remembrancer, and be paid by him into the said Receipt of His Majesty's Exchequer; and the said Treasurer or Commissioners shall cause Copies of all such Accounts to be laid before each House of Parliament at the Commencement of the Session of Parliament next after the rendering thereof; and all Sums so paid into the Receipt of the Exchequer shall be carried to the Credit of the Consolidated Fund, a separate Account being kept thereof: Provided also, that the said Second Schedule and every thing therein contained shall be deemed and be Part of this Act.

XLIII. And

Officers of the Equity Side of the Exchequer disqualified to sit in Parliament.

XLIII. And whereas by an Act passed in the Fourth Year of His late Majesty it is enacted, that the said Chief Remembrancer and every other Officer of the Equity Side of the Court of Exchequer in *Ireland* shall respectively execute the Duties of his Office in Person, except only in case of Sickness or necessary Absence; be it therefore enacted, That no Person holding the said Office of Chief Remembrancer or the said Office of Second Remembrancer, or any other Officer on the Equity or Review Side of the said Court of Exchequer, shall be capable of being elected or of sitting or voting as a Member of the House of Commons.

Elections of such Persons to Parliament void.

XLIV. And be it further enacted, That if any Person holding any of the said Offices shall be returned as a Member to serve in Parliament such Election and Return are hereby declared to be void; and if any Person so declared incapable of being elected and so returned shall presume to sit or vote as a Member of the House of Commons, every such Person so sitting and voting shall thenceforth be incapable of taking, holding, or enjoying any Office of Honour or Profit under His Majesty, His Heirs and Successors, and shall forfeit the Sum of Five hundred Pounds for every Day in which he shall sit or vote in the said House of Commons to such Person or Persons as shall sue for the same in any of His Majesty's Courts of *Westminster;* and the Money so forfeited shall be recovered by the Person or Persons so suing, with full Costs of Suit, in any of the said Courts, by Action of Debt, Bill, Plaint, or Information, in which no Essoign, Privilege, Protection, or Wager of Law shall be allowed, and only One Imparlance.

Commencement of Act.

XLV. And be it further enacted, That this Act shall commence and take effect from the First Day of *November* One thousand eight hundred and thirty-five.

SCHEDULES to which this Act refers.

FIRST SCHEDULE.

BY the LORD LIEUTENANT GENERAL and GENERAL GOVERNOR of IRELAND.

To *A. B.* of *&c.*

WHEREAS We have been pleased to nominate and appoint you for and to be Sheriff of the County of during His Majesty's Pleasure: These are therefore to require you to take the Custody and Charge of the said County, and duly to perform the Duties of Sheriff thereof during His Majesty's Pleasure, and whereof you are duly to answer according to Law.

Dated this Day of One thousand eight hundred and

By His Excellency's Command,

C. D.

[*When the Appointment shall be by any other or others than the Lord Lieutenant the Form shall be altered accordingly.*]

SECOND SCHEDULE.

A TABLE of all FEES which it shall be lawful for the Second Remembrancer of the Court of Exchequer in Ireland to accept for Acts done by him, and which shall be in lieu of any Fees or Stamp Duties which would otherwise become or be payable thereupon.

	£	s.	d.
SUMMONS.—On every Summons which shall actually issue on a Reference or any other Proceedings - -	0	13	0
CERTIFICATES.—On every Certificate, except Certificates at the Foot of Bills of Costs - - - - -	0	6	6
On every Certificate at the Foot of any Bill of Costs			
Where the Amount, as furnished or claimed by such Bill, shall not exceed the Sum of £50 -	0	10	6
Where such Amount shall exceed the Sum of £50, for every Sum of £10 or fractional Part of £10 above £50, an additional Sum of - -	0	3	0
RECOGNIZANCE.—Any Recognizance taken or acknowledged, for each Cognizor - - - - -	0	6	6
REPORTS.—Any Report under Interlocutory Order -	1	1	0
Under Decretal Order pronounced in a short Cause - - - - - - -	2	2	0
Under Decretal Order pronounced in a long Cause - - - - - - -	3	3	0
NOTICES.—Any Notice, Advertisement, or Posting to sell Lands pursuant to any Decree, or to set Lands pursuant to any Order or Decree - - -	1	1	0
LEASES and DEEDS.—Any Lease, and any Counterpart thereof, where the usual printed Form will suffice -	0	5	0
Any other Deed where the usual printed Form will suffice - - - - -	0	10	0
Any Lease, and any Counterpart thereof, where the Contract is of so special a Nature that a special Conveyance shall be prepared and engrossed -	1	1	0
Any other Contract of such special Nature -	2	2	0
Any Deed executed in the Name of any Party in a Cause refusing or declining to execute such Deed, or residing out of the Jurisdiction of the Court, for each Person so declining or refusing, or residing beyond such Jurisdiction - -	0	5	0
Any Deed of any other Sort - - -	2	2	0
For signing any Answer as Guardian of any Minor or infirm Person - - - - - -	0	10	6
Any Approbation for the Sale or Transfer of Stock	0	10	6
Any Petition signed and approved of as Guardian of any Minor or other Person - - - -	0	6	6

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