ANNO DUODECIMO & DECIMO TERTIO

VICTORIÆ REGINÆ.

****

C A P. LIII.

An Act for consolidating and amending several of the Laws relating to Attornies and Solicitors in *Ireland*. [28th *July* 1849.]

WHEREAS it is expedient to amend several of the Laws relating to Attornies and Solicitors practising in *Ireland*: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the passing of this Act so much of an Act passed in the Parliament of *Ireland* in the Seventh Year of the Reign of *George* the Second, intituled *An Act for the Relief of Mortgagees, and for making the Process in Courts of Equity more effectual against Mortgagors who abscond and cannot be served therewith, and against Persons who, being served, refuse to appear, and also for better regulating the Payment of the Fees of Attornies and Solicitors*, as relates to the better regulating the Payment of the Fees of Attornies and Solicitors, and also another Act passed in the Session of Parliament holden in the First and Second Years of the Reign of His late Majesty King *George* the Fourth, intituled *An Act to explain and amend an Act of the Parliament of* Ireland *passed in the Seventh*

So much of 7 G. 2. (I.) as relates to better regulating Payment of Fees repealed;

also, 1 & 2 G. 4. c. 17.

Year

Year of the Reign of His Majesty King George *the Second, for better regulating the Payment of Fees of Attornies and Solicitors, and other Purposes therein mentioned,* be and the same are hereby repealed, save so far as such Acts or Parts of Acts, or any of them, repeal the whole or any Part of the same or any other Act or Acts, and also save and except so far as relates to any Matters or Things done at any Time before the passing of this Act, all which Matters and Things shall be and remain good, valid, and effectual to all Intents and Purposes whatsoever as if this Act had not passed, and also save and except as to the Recovery and Application of any Penalty for any Offence which shall have been committed before the passing of this Act.

Attornies and Solicitors not to commence an Action for Fees until One Month after Delivery of their Bill.

II. And be it enacted, That from and after the passing of this Act no Attorney or Solicitor, nor any Executor, Administrator, or Assignee of any Attorney or Solicitor, shall commence or maintain any Action or Suit for the Recovery of any Fees, Charges, or Disbursements for any Business done by such Attorney or Solicitor, until the Expiration of One Month after such Attorney or Solicitor, or Executor, Administrator, or Assignee of such Attorney or Solicitor, shall have delivered unto the Party to be charged therewith, or sent by the Post to or left for him at his Counting-house, Office of Business, Dwelling House, or last known Place of Abode, a Bill of such Fees, Charges, and Disbursements, and which Bill shall either be subscribed with the proper Hand of such Attorney or Solicitor (or, in the Case of a Partnership, by any of the Partners, either with his own Name or with the Name or Style of such Partnership), or of the Executor, Administrator, or Assignee of such Attorney or Solicitor, or be enclosed in or accompanied by a Letter, subscribed in like Manner, referring to such Bill; and upon the Application of the Party chargeable by such Bill within such Month it shall be lawful, in case the Business contained in such Bill or any Part thereof shall have been transacted in the High Court of Chancery, or in any other Court of Equity, or in any Matter of Bankruptcy or Lunacy, or in case no Part of such Business shall have been transacted in any Court of Law or Equity, for the Lord High Chancellor or the Master of the Rolls, and in case any Part of such Business shall have been transacted in any other Court, for the Courts of Queen's Bench, Common Pleas, or Exchequer, or any Judge of either of them, and they are hereby respectively required, to refer such Bill, and the Demand of such Attorney or Solicitor, Executor, Administrator, or Assignee, thereupon, to be taxed and settled by the proper Officer of the Court in which such Reference shall be made, without any Money being brought into Court, and the Court or Judge making such Reference shall restrain such Attorney or Solicitor, or Executor, Administrator, or Assignee of

On Application within One Month, Bills, whether relating to Business transacted in any particular Court or not, may be referred to the proper Officer for Taxation.

such Attorney or Solicitor, from commencing any Action or Suit touching such Demand pending such Reference; and in case no such Application as aforesaid shall be made within such Month as aforesaid, that it shall be lawful for such Reference to be made as aforesaid either upon the Application of the Attorney or Solicitor, or the Executor, Administrator, or Assignee of the Attorney or Solicitor, whose Bill may have been so as aforesaid delivered, sent, or left, or upon the Application of the Party chargeable by such Bill with such Directions, and subject to such Conditions as the Court or Judge making such Reference shall think proper; and such Court or Judge may restrain such Attorney or Solicitor, or the Executor, Administrator, or Assignee of such Attorney or Solicitor, from commencing or prosecuting any Action or Suit touching such Demand pending such Reference, upon such Terms as shall be thought proper: Provided always, that no such Reference as aforesaid shall be directed upon an Application made by the Party chargeable with such Bill after a Verdict shall have been obtained or a Writ of Inquiry executed in any Action for the Recovery of the Demand of such Attorney or Solicitor, or Executor, Administrator, or Assignee of such Attorney or Solicitor, or after the Expiration of Twelve Months after such Bill shall have been delivered, sent, or left as aforesaid, except under special Circumstances, to be proved to the Satisfaction of the Court or Judge to whom the Application for such Reference shall be made; and upon every such Reference, if either the Attorney or Solicitor, or Executor, Administrator, or Assignee of the Attorney or Solicitor, whose Bill shall have been delivered, sent, or left, or the Party chargeable with such Bill, having due Notice, shall refuse or neglect to attend such Taxation, the Officer to whom such Reference shall be made may proceed to tax and settle such Bill and Demand *ex parte*; and in case any such Reference as aforesaid shall be made upon the Application of the Party chargeable with such Bill, or upon the Application of such Attorney or Solicitor, or the Executor, Administrator, or Assignee of such Attorney or Solicitor, and the Party chargeable with such Bill shall attend upon such Taxation, the Costs of such Reference shall, except as herein-after provided for, be paid according to the Event of such Taxation; that is to say, if such Bill when taxed be less by a Sixth Part than the Bill delivered, sent, or left, then such Attorney or Solicitor, or Executor, Administrator, or Assignee of such Attorney or Solicitor, shall pay such Costs; and if such Bill when taxed shall not be less by a Sixth Part than the Bill delivered, sent, or left, then the Party chargeable with such Bill, making such Application or so attending, shall pay such Costs; and every Order to be made for such Reference as aforesaid shall direct the Officer to whom such Reference shall be made to tax such Costs of such Reference to be so paid as aforesaid, and to certify what upon

As to Taxation if Application not made till after One Month.

No Taxation after Twelve Months, except under special Circumstances.

Payment of Costs of Taxation.

upon such Reference shall be found to be due to or from such Attorney or Solicitor, or Executor, Administrator, or Assignee of such Attorney or Solicitor, in respect of such Bill and Demand, and of the Costs of such Reference, if payable: Provided also, that such Officer shall in all Cases be at liberty to certify specially any Circumstances relating to such Bill or Taxation, and the Court or Judge shall be at liberty to make thereupon any such Order as such Court or Judge may think right respecting the Payment of the Costs of such Taxation: Provided also, that where such Reference as aforesaid shall be made when the same is not authorized to be made, except under special Circumstances, as herein-before provided, then the said Court or Judge shall be at liberty, if it shall be thought fit, to give any special Directions relative to the Costs of such Reference: Provided also, that it shall be lawful for the said respective Courts and Judges, in the same Cases in which they are respectively authorized to refer a Bill which has been so as aforesaid delivered, sent, or left, to make such Order for the Delivery, by any Attorney or Solicitor, or the Executor, Administrator, or Assignee of any Attorney or Solicitor, of such Bill as aforesaid, and for the Delivery up of Deeds, Documents, or Papers in his Possession, Custody, or Power, or otherwise touching the same, in the same Manner as has heretofore been done as regards such Attorney or Solicitor by such Courts or Judges respectively where any such Business had been transacted in the Court in which such Order was made: Provided also, that it shall not in any Case be necessary, in the first instance, for such Attorney or Solicitor, or the Executor, Administrator, or Assignee of such Attorney or Solicitor, in proving a Compliance of this Act, to prove the Contents of the Bill he may have delivered, sent, or left, but it shall be sufficient to prove that a Bill of Fees, Charges, or Disbursements, subscribed in the Manner aforesaid, or enclosed in or accompanied by such Letter as aforesaid, was delivered, sent, or left in manner aforesaid; but nevertheless it shall be competent for the other Party to show that the Bill so delivered, sent, or left was not such a Bill as constituted a *bonâ fide* Compliance with this Act: Provided also, that it shall be lawful for any Judge of the Superior Courts of Law or Equity to authorize an Attorney or Solicitor to commence an Action or Suit for the Recovery of his Fees, Charges, or Disbursements against the Party chargeable therewith, although One Month shall not have expired from the Delivery of a Bill as aforesaid, on Proof to the Satisfaction of the said Judge that there is probable Cause for believing that such Party is about to quit *Ireland*.

Payment of Sum found due.

Courts may order Attorney or Solicitor to deliver his Bill, and deliver up Deeds, &c.

Evidence of Delivery of Bill.

Power to Judge to authorize Action before Expiration of One Month.

III. And be it enacted, That where any Person not the Party chargeable with any such Bill within the Meaning of the Provisions herein-before contained shall be liable to pay or shall have paid such Bill,

Bills may be taxed upon Application of Third Parties.

Bill, either to the Attorney or Solicitor, his Executor, Administrator, or Assignee, or to the Party chargeable with such Bill as aforesaid, it shall be lawful for such Person, his Executor, Administrator, or Assignee, to make such Application for a Reference for the Taxation and Settlement of such Bill as the Party chargeable therewith might himself make; and the same Reference and Order shall be made thereupon, and the same Course pursued in all respects, as if such Application was made by the Party so chargeable with such Bill as aforesaid: Provided always, that in case such Application is made when under the Provisions herein contained a Reference is not authorized to be made, except under special Circumstances, it shall be lawful for the Court or Judge to whom such Application shall be made to take into consideration any additional special Circumstances applicable to the Person making such Application, although such Circumstances might not be applicable to the Party so chargeable with the said Bill as aforesaid if he were the Party making the Application.

Lord Chancellor may direct Taxation of Bills chargeable on Executors.

IV. And be it enacted, That it shall be lawful, in any Case in which a Trustee, Executor, or Administrator has become chargeable with any such Bill as aforesaid, for the Lord High Chancellor or the Master of the Rolls, if in his Discretion he shall think fit, upon the Application of a Party interested in the Property out of which such Trustee, Executor, or Administrator may have paid or been entitled to pay such Bill, to refer the same, and such Attorney's or Solicitor's, or Executor's, Administrator's, or Assignee's Demand thereupon, to be taxed and settled by the proper Officer of the High Court of Chancery, with such Directions and subject to such Conditions as such Judge shall think fit, and to make such Order as such Judge shall think fit for the Payment of what may be found due, and of the Costs of such Reference, to or by such Attorney or Solicitor, or the Executor, Administrator, or Assignee of such Attorney or Solicitor, by or to the Party making such Application, having regard to the Provisions herein contained relative to Applications for the like Purpose by the Party chargeable with such Bill, so far as the same shall be applicable to such Cases; and in exercising such Discretion as aforesaid the said Judge may take into consideration the Extent and Nature of the Interest of the Party making the Application: Provided always, that where any Money shall be so directed to be paid by such Attorney or Solicitor, or the Executor, Administrator, or Assignee of such Attorney or Solicitor, it shall be lawful for such Judge, if he shall think fit, to order the same or any Part thereof to be paid to such Trustee, Executor, or Administrator so chargeable with such Bill instead of being paid to the Party making such Application; and when the Party making such Application shall pay any Money to such

Attorney or Solicitor, or Executor, Administrator, or Assignee of such Attorney or Solicitor, in respect of such Bill, he shall have the same Right to be paid by such Trustee, Executor, or Administrator so chargeable with such Bill as such Attorney or Solicitor, or Executor, Administrator, or Assignee of such Attorney or Solicitor, had.

Copy of Bill to be delivered to Person making Application for Reference for Taxation.

V. And be it enacted, That for the Purpose of any such Reference, upon the Application of the Person not being the Party chargeable within the Meaning of the Provisions of this Act as aforesaid, or of a Party interested as aforesaid, it shall be lawful for such Court or Judge to order any such Attorney or Solicitor, or the Executor, Administrator, or Assignee of any such Attorney or Solicitor, to deliver to the Party making such Application a Copy of such Bill, upon Payment of the Costs of such Copy: Provided always, that no Bill which shall have been previously taxed and settled shall be again referred, unless under special Circumstances the Court or Judge to whom such Reference is made shall think fit to direct a Re-taxation thereof.

No Re-taxation, except under special Circumstances.

Payment of Bill not to preclude Taxation.

VI. And be it enacted, That the Payment of any such Bill as aforesaid shall in no Case preclude the Court or Judge to whom Application shall be made from referring such Bill for Taxation, if the special Circumstances of the Case shall, in the Opinion of such Court or Judge, appear to require the same, upon such Terms and Conditions and subject to such Directions as to such Court or Judge shall seem right, provided the Application for such Reference be made within Twelve Calendar Months after Payment.

Power for Taxing Officer to request Officers of other Courts to tax Portions of the Bill.

VII. And be it enacted, That in all Cases in which such Bill shall have been referred to be taxed and settled the Officer to whom such Reference is made shall be at liberty to request the proper Officer of any other Court having such an Officer to assist him in taxing and settling any Part of such Bill, and such Officer so requested shall thereupon proceed to tax and settle the same, and shall have the same Powers in respect thereof as upon a Reference to him by the Court of which he is such Officer, and shall return the same, with his Opinion thereon, to the Officer who shall have so requested him to tax and settle the same.

Application for taxing Bills of Costs, how to be made.

Certificate of the Officer.

VIII. And be it enacted, That all Applications made under this Act to refer any such Bill as aforesaid to be taxed and settled, and for the Delivery of such Bill, and for the delivering up of Deeds, Documents, and Papers, shall be made in the Matter of such Attorney or Solicitor; and that upon the Taxation and Settlement of any such Bill the Certificate of the Officer by whom such Bill shall be

be taxed shall (unless set aside or altered by Order, Decree, or Rule of Court,) be final and conclusive as to the Amount thereof, and Payment of the Amount certified to be due and directed to be paid may be enforced according to the Course of the Court in which such Reference shall be made; and in case such Reference shall be made in any Court of Common Law it shall be lawful for such Court or any Judge thereof to order Judgment to be entered up for such Amount, with Costs, unless the Retainer shall be disputed, or to make such other Order thereon as such Court or Judge shall deem proper. Judgment may be entered.

IX. And be it enacted, That in the Construction of this Act the Word "Month" shall be taken to mean a Calendar Month; and every Word importing the Singular Number only shall extend and be applied to several Persons, Matters, or Things, as well as one Person, Matter, or Thing; and every Word importing the Plural Number shall extend and be applied to one Person, Matter, or Thing, as well as several Persons, Matters, or Things; and every Word importing the Masculine Gender only shall extend and be applied to a Female as well as a Male; and the Word "Person" shall extend to any Body politic, corporate or collegiate, municipal, civil, or ecclesiastical, aggregate or sole, as well as an Individual, unless in any of the Cases aforesaid it be otherwise specially provided, or there be something in the Subject or Context repugnant to such Construction. Construction of Terms.

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

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