

ANNO VICESIMO QUARTO & VICESIMO QUINTO

VICTORIÆ REGINÆ.

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CAP. XLIII.

An Act to facilitate the Remedies on Bills of Exchange and Promissory Notes in *Ireland* by the Prevention of frivolous or fictitious Defences to Actions thereon. [22d *July* 1861.]

WHEREAS *bonâ fide* Holders of dishonored Bills of Exchange and Promissory Notes are often unjustly delayed and put to unnecessary Expense in recovering the Amount thereof by reason of frivolous or fictitious Defences to Actions thereon, and it is expedient that greater Facilities than now exist should be given for the Recovery of Money due on such Bills and Notes: 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, as follows:

1. From and after the Twenty-first Day of *October* One thousand eight hundred and sixty-one, all Actions upon Bills of Exchange or Promissory Notes commenced within Six Months after the same shall have become due and payable, may, in case the Plaintiff shall desire to proceed under this Act, be commenced as herein-after mentioned; that

From and after 21st Oct. 1861 all Actions upon Bills of Exchange, &c. may, if

Plaintiff desires to proceed under this Act, be in the Form prescribed by 16 & 17 Vict. c. 113., with Additions thereto, as herein specified.

that is to say, the Summons and Plaint shall be in the Form prescribed by the Common Law Procedure Amendment Act (*Ireland*), 1853; but, in addition thereto, and to any Particulars or Indorsements required by the said Act, such Summons and Plaint shall have at the Head thereof a Notice in the Form contained in the Schedule (A.) to this Act annexed; and in any Case in which the Summons and Plaint shall be in such Form it shall not be lawful for the Defendant to file any Appearance or Defence to the said Action unless he shall obtain Leave from a Judge, as herein-after mentioned, so to appear and defend; and in default of his obtaining such Leave, or of Appearance and Defence in pursuance thereof, the Plaintiff shall be entitled to mark Judgment with Costs, in pursuance of the Provisions of the Common Law Procedure Amendment Act (*Ireland*), 1853, for any Sum not exceeding the Sum mentioned in the Notice at the Commencement of the Summons and Plaint.

Defendant showing a Defence upon the Merits, to have Leave to appear.

2. A Judge of any of the Superior Courts of Common Law in *Ireland* may, upon Application made within the Period of Twelve Days from such Service, or at any Time before Judgment marked, give Leave to appear and defend such Action on the Defendant paying into Court the Sum claimed by the Summons and Plaint, or upon Affidavits satisfactory to the Judge, which disclose a legal or equitable Defence, or such Facts as would make it incumbent on the Holder to prove Consideration or such other Facts as the Judge may deem sufficient to support the Application, and on such Terms as to Security, or otherwise, as to the Judge may seem fit.

Judge may, under special Circumstances, set aside Judgment.

3. After Judgment the Court or a Judge may, under special Circumstances, set aside the Judgment, and, if necessary, stay or set aside Execution, and may give Leave to appear and defend the Action, if it shall appear to be reasonable to the Court or Judge to do so, and on such Terms as to the Court or Judge may seem just.

Judge may order Bill to be deposited with Officer of Court in certain Cases.

4. In any Proceedings under this Act it shall be competent to the Court or a Judge to order the Bill or Note sought to be proceeded upon to be forthwith deposited with an Officer of the Court, and further to order that all Proceedings shall be stayed until the Plaintiff shall have given Security for the Costs thereof.

Remedy for the Recovery of Expenses of noting Nonacceptance of dishonored Bill.

5. The Holder of every dishonored Bill of Exchange or Promissory Note shall have the same Remedies for the Recovery of the Expenses incurred in noting the same for Nonacceptance or Nonpayment or otherwise, by reason of such Dishonor, as he has under this Act for the Recovery of the Amount of such Bill or Note.

6. The

Common Law Procedure Acts and Rules made under them incorporated.

6. The Provisions of the "Common Law Procedure Amendment Act (*Ireland*), 1853," and the "Common Law Procedure Amendment Act (*Ireland*) 1856," and all Rules made under or by virtue of either of the said Acts, shall, so far as the same are or may be made applicable, extend and apply to all Proceedings to be had or taken under this Act.

Judges to frame Rules.

7. The Judges of the Superior Courts of Common Law in *Ireland* shall have Power to frame all Rules and Process necessary thereto.

Extent of Act.

8. This Act shall apply to *Ireland* only.

Short Title.

9. In citing this Act in any Instrument, Document, or Proceeding, it shall be sufficient to use the Expression "The Summary Procedure on Bills of Exchange (*Ireland*) Act, 1861."

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